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# THE LAWS

RELATING TO

# PUBLIC HEALTH,

## SANITARY—MEDICAL—PROTECTIVE.

INCLUDING

## THE LEGISLATION TO THE END OF THE LAST SESSION OF PARLIAMENT

CONNECTED WITH

ADULTERATION OF FOOD, ALKALI WORKS, APOTHECARIES, ARSENIC, BAKEHOUSES, BATHS AND WASHHOUSES, BREAD, BURIALS, ALKALIS, CHIMNEY-SWEEPERS, DISEASES PREVENTION, FACTORIES, GUNPOWDER, LOCAL GOVERNMENT, LODGING HOUSES, LUNATICS, MEAT, MEDICAL REGISTRATION, ETC., METROPOLIS MANAGEMENT, MINERS, NUISANCES, PETROLEUM, POISON, RECREATION GROUNDS, QUARANTINE, SMOKE, VACCINATION, WATER, ETC.

ALSO

## NOTES, FORMS, AND PRACTICAL INSTRUCTIONS.

BY


## THOMAS BAKER, Esq.,

OF THE INNER TEMPLE, BARRISTER-AT-LAW.
SECRETARY TO THE ROYAL COMMISSION ON THE SANITARY STATE OF THE ARMY IN INDIA,
OF THE LATE BURIAL ACTS DEPARTMENT,
AND FORMERLY IN THE OFFICE OF THE FIRST GENERAL BOARD OF HEALTH,
AUTHOR OF "THE LAWS RELATING TO BURIALS," ETC.



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TO

# THE MUNICIPALITIES OF ENGLAND

WHOSE MULTIFARIOUS POWERS

UNDER THE VARIOUS LEGISLATIVE ENACTMENTS

IN THAT BEHALF

HAVE RENDERED THEM THE

CHIEF CONSERVATORS OF THE PUBLIC HEALTH,

THIS COMPILATION

IS

Dedicated.

# INTRODUCTION.

THE Acts passed by the Legislature for the protection of the Public Health have now become so numerous as to render a compendious analysis of them an important desideratum. In the preface to a former work, "The Laws relating to Burials," the author has observed that "while consolidation of the existing law is talked of, Parliament is actively engaged in rendering more difficult the work of consolidation by the present system of amending statutes," so that each new subject speedily becomes a volume. In this work an attempt has been made so to digest and arrange the various sanitary medical and protective statutes under different heads, as to supply a key to every subject embraced within this wide field of beneficent legislation.

Preventive medicine may be called a science of comparatively modern date. The cure of disease introduced by Hippocrates and Galen was long the sole aspiration of the divine art. If the ancients appreciated pure air and water, their prophylactic value was lost sight of amid the darkness of the middle ages, and during the Plague of London no one dreamt of any cause other than the poison of contagion. The beginning of the present century saw no great improvement, nor are the remnants of ignorance, in this respect, any more than

the delusions concerning witchcraft, altogether absent even yet in the most enlightened country in Europe.

The lengthened wars during the past century, carried on as they were often in warm and unhealthy climates, (*e.g.*, the disastrous Walcheren expedition,) afforded many opportunities for observation, which were not lost by the best educated men on the medical staff of the British army. Some of these, among whom Sir John Pringle and Lind are perhaps worthy the most distinguished place, published the results of their experience for the benefit of the world. They, however, failed to make any great impression on the public mind. Absurd and wicked Quarantine Laws (laws which, to the disgrace of our country, be it said, are still in existence) continued to be enforced with all the rigour of ignorance, superstition and their concomitant cruelty: and it was not until 1825 that the writings of Dr. Southwood Smith, ringing with vigorous logic and enlightened philanthropy, first began to awaken the national sense to the fact that filth and fever are intimate associates; that preventive medicine is of more importance than curative medicine; and that the bugbear of contagion, the great enemy which, by inducing isolation and the neglect of all prophylactic means, has heretofore slain its thousands from our fleets, our armies, and our civil population, should lie for ever buried by the side of witchcraft and her kindred superstitions. The Reports of the first General Board of Health on Quarantine, drawn up by him, will long be referred to as the standard works on that subject, particularly the second report (with appendices) on yellow fever and plague. Hence Southwood Smith has been fairly designated the Father of Sanitary Reform. His efforts were well seconded by his colleague, Edwin Chadwick.

In 1848 an Act of Parliament, entitled the Public Health Act, was obtained, under which Boards of Health have been established in numerous towns of England, for the execution of works of general sanitary improvement. The effects even already produced by such measures, in increasing the value or expectation of life in those towns to which they have been applied, have been ably set forth from time to time by Dr. Farr, in the Reports of the Registrar General.

The Nuisances Acts, Common Lodging Houses Acts, Smoke Consumption Acts, Local Government and Local Management Acts, &c., &c., followed the Public Health Act in quick succession.

The powers conferred by these several statutes are embodied in the following pages; a classified digest of the enactments being followed by an appendix containing a chronological arrangement of the principal statutes, in the order and words in which they were passed. The numerous penalties incurred by their violation or neglect render it a matter of great importance that these provisions should be widely known. All Acts bearing on Health, *e.g.*, Burials, Lunacy, Medical, Factory, &c., are also noticed; and such forms, practical instructions, and cases appended, as will, it is hoped, with the notes and index, render the subjects treated, of easy application; and prove useful to corporations, guardians, and rate-payers, as well as to the medical profession and the public at large.

6, KING'S BENCH WALK, TEMPLE,
*January*, 1865.

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### APPLICATION OF POWERS (*a*).

#### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

PRIOR to the passing of the Public Health Act, 1848, works of sanitary (*b*) improvement in any town could only be carried out under the authority of a special local Act of Parliament, to facilitate the enactment of which was passed the Towns Improvement Clauses Act, 1847. By the Public Health Act (11 & 12 Vict. c. 63) the Queen was empowered to issue Orders in Council, on the recommendation of a General Board of Health; or the Board might issue Provisional Orders, to be confirmed by Parliament, under the title of Public Health Supplemental Acts, for applying the provisions of the general Act to the places therein specified.

By the Local Government Act, 1858 (21 & 22 Vict. c. 98), which incorporates the main provisions of the Public Health

(*a*) In accordance with the plan which the author has laid down, a compendious analytical digest of the several enactments is given in the text, so arranged that all the provisions under each head shall be brought together. But all the statutes so digested will be found entire in the Appendix, where a strict chronological order has been observed; and any one of these may readily be found by reference to the Contents or Index.

(*b*) From *sanitas*—health. This word is sometimes less correctly written "sanatory."

Act, 1848, all the powers of the General Board were either abrogated or transferred to the Secretary of State (ss. 8, 13, *et seq.*). In lieu of the application of the Act to any District, after inquiry by a Central Authority on petition of a certain proportion of the ratepayers, the principle of the Local Government Act is, that the Local Authorities, owners and ratepayers of any district may adopt the Act (s. 12) on giving notice, and subject to appeal from dissentients to the Secretary of State; and, with reference to Provisional Orders for the purchase of land or alteration of boundaries in certain cases, subject also to the confirmation of Parliament by Local Government Supplemental Acts (ss. 75, 77, 78). The two Acts are to be construed together, and the provisions of each applicable to all matters arising under the other (s. 4) (*a*).

Under the Local Government Act a Local Board of Health may be constituted in any borough (*b*) by resolution of the Council assembled for the purpose; and in other places by Improvement Commissioners, where such exist, or (where no such Board), by owners and ratepayers; but a month's notice of meeting of such Council, or Board, and of the purpose thereof, must be given in the usual manner, and two-thirds of the members present must concur in the resolution (s. 12). Such meeting is to be summoned, on the requisition of twenty ratepayers or owners, by the Mayor, the chairman of the Commissioners, the Churchwardens or Overseers, as the case may be; or, in case of refusal or neglect, by any person appointed by the Secretary of State (s. 13). The requisitionists may be required to give security for costs, in case the Act be not adopted within the district (24 & 25 Vict. c. 61, s. 1). Where no such

(*a*) Where it had been enacted that "All the powers and provisions [of a former Act] for the carrying the said Act into execution, shall be as good, valid, and effectual for carrying this Act [the Act in question] into execution, as if the same had been respectively repealed and re-enacted in the body of this Act," it was held that any enactment contained in the former is embodied in the latter (*R.* v. *Fell*, 1. B. & Ad. 380). It is apprehended that the same would be the case where two or more Acts are to be construed as one Act.

(*b*) "Borough" shall include all places mentioned in 5 & 6 Will. 4, c. 76, or duly incorporated by subsequent charter, 21 & 22 Vict. c. 98, s. 2.

Council or Board exists, the summoning officer must fix, and give notice of, such meeting by advertisement, and at the usual churches and chapels. The meeting shall choose a chairman, and may be adjourned from day to day. The chairman is to propose the adoption of the Act, and the meeting decide for or against the same. A poll may be demanded, to be taken by voting papers according to the form and manner prescribed. If there be no poll, a declaration by the chairman will, in the absence of proof, be sufficient evidence of the decision;—any person forging, altering, destroying, purloining or interrupting the proper distribution of voting papers may be imprisoned not exceeding three months, with or without hard labour (21 & 22 Vict. c. 98, s. 13). Except with the sanction of the Secretary of State, a small place included within a greater—though each be otherwise authorised,—is not entitled to adopt the Act, unless the greater place has refused to adopt the same (s. 14) (*a*).

The District of any Local Board of Health adjoining a highway district is to be deemed within such last-mentioned district for the purpose of any meeting of the Highway Board (26 Vict. c. 17, s. 6). Any Commissioners or other Local Authority exercising powers for sanitary regulations or town improvement under a local Act, may adopt any part of the Local Government Act, by resolution, to be forwarded to the Secretary of State, subject to certain restrictions as to borrowing and retirement and election of members (s. 15 ; and 24 & 25 Vict. c. 61, s. 2). Nor will this power of adopting part of the general Act be exhausted by one adoption, but may be continued from time to time (26 Vict. c. 17, s. 7). One tenth of the ratepayers of any place having no defined boundary may petition the Secretary of State to settle the same; who may direct inquiry, after notice, and make orders thereupon, and as to

(*a*) The boundaries of a district within a larger one may, under s. 14 of the Local Government Act, be settled by the Secretary of State ; but this cannot be done until the greater place has refused to adopt the Act (*Ex parte Matlock, Bath District*, 31 L. J. Q. B. 177).

costs, and may appoint a summoning officer for the purposes of the Act (21 & 22 Vict. c. 98, s. 16). One-twentieth at least, in number or property, of the owners and ratepayers of any such place as may have resolved to adopt the Act, may, within six weeks, petition the Secretary of State, appealing against such resolution, and praying that the whole or any part of such place may be excluded from the operation of the Act (s. 17; and 26 Vict. c. 17, s. 3). In like manner any owner or ratepayer may, within six weeks, appeal against the validity of the vote for adopting the Act (s. 18; and 26 Vict. c. 17, s. 3). Whenever a resolution adopting the Act has been passed notice must be given, by the Mayor, chairman of Commissioners, or summoning officer, as the case may be, to the Secretary of State, and published by advertisement, and at the usual churches and chapels, within the district; and when such notice has been given, and the time for such appeal has expired, or such appeal has been dismissed, a notice must be published in the Gazette, by the Secretary of State, that the Act has been adopted within such place (s. 19). At the expiration of two months after such resolution, or at the time mentioned in the order made on any appeal or otherwise, the Act will have the force of law, and the District be constituted within such place; subject to confirmation in places, and for purposes, included in any local Act (s. 20).

In Oxford or Cambridge the Commissioners may adopt the Act, the board to be elected in manner prescribed (11 & 12 Vict. c. 63, s. 31, and 21 & 22 Vict. c. 98, s. 82). In any place where the Act was not in force on the 1st of March, 1863, the population being less than 3000, any adoption, to be valid, must be approved by the Secretary of State, who may inquire as to the expediency thereof, and must publish the result in the Gazette (26 Vict. c. 17, s. 2).

A resolution adopting the Act, passed in a place having a population under 3000, may be rescinded by a subsequent resolution, passed in the same manner, and to be approved by the Secretary of State, by whom notice thereof must be pub-

lished in the Gazette; such rescinding resolution, however, is subject to an appeal in the usual manner, pending which, or until the expiration of the time limited for an appeal, such notice shall not be published, but upon such publication the Act will cease to be in force within the district, save so far as to any existing contracts (26 Vict. c. 17, s. 4). In any legal proceedings no objection to the validity of the adoption of the Act or any order or proceeding thereon can be made, unless fourteen days' notice of the nature of the objection shall have been given the other parties; and no objection whatever will be admissible after six months from the constitution of the District (21 & 22 Vict. c. 98, s. 21). One publication in the Gazette, and in any local newspaper is to be conclusive evidence of such adoption of the Act (s. 22). Costs incurred by the Secretary of State, in relation to the proceedings, to such an amount as the Treasury may direct, are to become a charge upon the rates levied under the Act, to be repaid with interest by five annual instalments (s. 23) (*a*). Any Superintending Inspector appointed by the Secretary of State may summon witnesses to any place within ten miles of their residence during any inquiry, and examine them upon oath and may require books, plans, &c., to be produced:—penalty for disobedience or refusal to answer not exceeding 5*l.* (11 & 12 Vict. c. 63, s. 121; 21 & 22 Vict. c. 98, s. 80). Provisional Orders, &c., to be laid before Parliament, with all reports relating thereto (11 & 12 Vict. c. 63, s. 142). The Local Board, in case they desire any alteration in their District, may petition the Secretary of State, who may cause inquiry to be made, and, with consent of the inhabitants in certain cases, may issue a Provisional Order accordingly, to be confirmed by Parliament

(*a*) Where the poor-rates of a parish had been charged under statute 6 & 7 Will. 4, c. 96, with the payment of a sum of money in five years, and the whole had not been discharged within the time, it was held that the charge on the rates was general and might be subsequently enforced; but that the application for a *mandamus* must be made without delay. Unless such delay be sufficiently explained it will be refused (*R.* v. *Hurstbourne Tarrant*, 1 E. B. & E. 246; 23 Jur. 783; 27 L. J. M. C. 214).

(21 & 22 Vict. c. 98, s. 77 ; and 24 & 25 Vict. c. 61, s. 27). All Orders made by the Secretary of State to be binding, also as to the costs of any appeal to him (21 & 22 Vict. c. 98, s. 81). who may annually report to Parliament on the execution of the Act (s. 79).

### NUISANCES REMOVAL AND DISEASES PREVENTION ACTS.

The powers under *The Nuisances Removal and Diseases Prevention Acts* being general, apply to all parts of the country ; so that no adoption of them is required to put their provisions into operation.

In the Metropolis the powers under the Nuisances Acts, as well as for all purposes of Public Health, are executed by the Metropolitan Board of Works and the District Boards constituted by the Metropolis Management Acts. [See "Constitution of Local Authorities," for both these heads.]

### METROPOLIS MANAGEMENT ACTS.

The provisions of any local Act may be suspended or altered by Order in Council, if at variance with the Metropolis Management Acts (18 & 19 Vict. c. 120, s. 248). And the last-mentioned Acts may, in like manner, be extended to parishes adjoining the Metropolis (s. 249), after notice to be submitted to the Vestry (25 & 26 Vict. c. 102, s. 42).

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## CONSTITUTION OF LOCAL AUTHORITIES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

Under the Public Health Act, 1848, Local Boards of Health, except in boroughs, were elected by owners and ratepayers, the number of members having been fixed by the General Board of Health ; and nothing in the Local Government Act (21 & 22 Vict. c. 98) affected the qualification and numbers of the members of such Local Boards in places where the Public

Health Act was in force prior to the 1st September, 1858 (s. 5). All the powers, rights, duties, and liabilities of Local Boards constituted under the Public Health Act, are conferred on Boards under the Local Government Act (s. 6). Such Board, in boroughs, shall be the Council: in other places, the Improvement Commissioners, where such exist, and, where no such body, such number of qualified elective members resident within seven miles as may be determined by the ratepayers: and for the purposes of the election the District may, with the approval of the Secretary of State, be divided into wards in manner prescribed. The first election must be conducted by the summoning officer in manner directed by the 11 & 12 Vict. c. 63, s. 20, *et seq.*, as regards qualification of voters, mode of voting, &c., &c., under penalty of 50*l.* for refusal or neglect [ib. s. 28]. Proceedings not to be invalidated for want of form [s. 29]. Expenses to be defrayed out of the rates [s. 30] (21 & 22 Vict. c. 98, s. 24). Any Local Authority elected for life under a local Act, on adopting the Local Government Act, must adopt, in lieu thereof, the mode of election prescribed by the last-mentioned Act (24 & 25 Vict. c. 61, s. 2). One-third of the members of such Local Board so elected shall go out of office yearly, and others be elected in their stead (11 & 12 Vict. c. 63, s. 13). Retiring members are eligible for re-election, and the remaining members may act when vacancies exist (ib. s. 14). Any casual vacancy may be filled up within a month (21 & 22 Vict. c. 98, s. 24). The first meeting of the Board shall be held within ten days after the election (ib.). In any place, with a population under 3000, where the Act has been adopted, if no election takes place within three months of the constitution of the District, or the Local Board fail, within two months after their election, to appoint proper officers, the Act shall cease to be in force, save as to any contracts (26 Vict. c. 17, s. 5). Before acting, elected members must sign a declaration in the form prescribed, falsely to make which is a misdemeanor (11 & 12 Vict. c. 63, s. 17). Any person not making such declaration

within three months or neglecting to attend the meetings during three months, thereby ceases to be a member (ib. s. 18) (*a*). No bankrupt or insolvent is eligible, nor person concerned in any contract with the Local Board (*b*); and any disqualified person acting is liable to a penalty of 50*l.* (ib. s. 19) (*c*). Interest in sale or lease of lands, or as shareholder in any joint stock company having any contract with the Board, does not disqualify, provided that no such shareholder vote on any question between the company and the Board; which prohibition, in the case of a shareholder in any water company, may be dispensed with by the Secretary of State (21 & 22

(*a*) In the case of *Howitt* v. *Manfull*, it was held that members disqualified under s. 18 by reason of neglect to attend the meetings of the Board, might be those selected to go out of office at the next election (6 E. & B. 736; 25 L. J. (Q. B.) 411).

(*b*) *I.e.*, a continuing contract, to supply a series of articles,—not a single transaction; *Wooley* v. *Kay*, 25 L. J. Exch. 351; 1 H. & N. 307. In *Le Feuvre* v. *Lancaster*, 3 E. & B. 530, it was held that a member of a Corporation, which had contracted for a supply of iron railing, might furnish iron to the contractor (see *Towsey* v. *White*, 5 B. & C. 125, and *West* v. *Andrews*, 5 B. & Ald. 328). Though a member lose his office by reason of such contract, the Board must carry out the bargain (*Foster* v. *Oxford Railway*, 13 C. B. 200).

(*c*) The consent of the Attorney-General is necessary to a proceeding for such penalty "by any person other than a party grieved" (21 & 22 Vict. c. 98, s. 133). A mere ratepayer of the district cannot maintain an action without such consent (*Boyce* v. *Higgins*, 14 C. B. 1), nor an unsuccessful candidate at an election (*Hollis* v. *Marshall*, 2 H. & N. 755; 27 L. J. Exch. 235). A Commissioner under a local Act supplied lime to the Commissioners: it was held that his having been thus "concerned in any contract" was a question for the jury, and that, it being found in the affirmative, he thereby became subject to the penalty for acting after becoming disqualified (*Nicholson* v. *Fields*, 31 L. J. Ex. 233). Where by a local Act a penalty was imposed on a Commissioner for acting without a certain qualification, and by a subsequent Act the qualification was altered without specifying any penalty; but the two Acts were to be construed as one, except so far as the provisions of the first were inconsistent with the second, it was held that a Commissioner acting without the qualification imposed by the latter Act was liable to the penalty imposed by the former (*Gough* v. *Hardman*, 5 H. & N. 112). Where by Act of Parliament a penalty was imposed on any trustee holding an office of profit in connection with the trust, it was held that a trustee who accepted the office of treasurer, but allowed another person to receive the moneys, and never himself made any profit, was liable to the penalty if the office yielded any profit (*Delane* v. *Hillcoat*, 9 B. & C. 534).

Vict. c. 98, s. 25). In case the District of any elected Local Board becomes a corporate borough, the powers of such Board are transferred to the Council, which thereupon becomes the Local Board (11 & 12 Vict. c. 63, s. 33; 21 & 22 Vict. c. 98, s. 26). Adjoining Districts may unite, with the sanction of the Secretary of State (21 & 22 Vict. c. 98, s. 27). And a Local Board, with consent, may execute works in any place adjoining its own District (s. 28).

### NUISANCES REMOVAL ACTS.

The Local Authority to execute these Acts shall be the Local Board of Health, where such exists, and the Council in boroughs having no Local Board; the Improvement Commissioners, where such exist; and where neither of these bodies, the Guardians of the poor; or where no Guardians, the Overseers (23 & 24 Vict. c. 77, s. 2) (*a*); save that existing Highway Boards, or Nuisance Removal Committees, may continue to act, but so long only as they be annually chosen by the Vestry (*b*), or

(*a*) In Ireland the Commissioners appointed under the Medical Charities Act (14 & 15 Vict. c. 68, s. 19) are to be the Commissioners for executing the powers of the Nuisances Act, 1848 (11 & 12 Vict. c. 123, and 12 & 13 Vict. c. 111).

(*b*) A VESTRY, so called from the room where the priest puts on his vestments, in which it is usually held, is the assembly of the parish met in any convenient place for the dispatch of business (Shaw's Par. L. c. 17). By 13 & 14 Vict. c. 57, powers are given for providing rooms distinct from the church for holding vestry meetings and appointing vestry clerks. Vestry meetings are convened by notice in writing, stating the time and place of holding the same and the special purpose thereof, signed by a churchwarden, the incumbent, curate, or an overseer of the parish, and affixed on or near to the principal door of each church or chapel in the parish previously to the commencement of divine service (58 Geo. 3, c. 69, s. 1, amended by 1 Vict. c. 45, ss. 1, 2, 3).

The incumbent of the parish presides by right, if present (*Wilson* v. *M'Math*, 3 Phillim. 67); if absent, a chairman is elected by the meeting, who has a casting vote (58 Geo. 3, c. 69, s. 2). Every inhabitant or person occupying land within the parish rated to the poor at any amount under 50*l.* is entitled to one vote, and all persons rated at 50*l.* or upwards are entitled to a vote for every 25*l.* value. No person, however, is entitled to more than six votes. Joint property may be represented by one of the owners, if but one present, in respect of the whole of the joint charge (Ibid., s. 3, and 59 Geo.

employ sanitary inspectors (s. 3): and save also the Vestries and District Boards in the metropolis (s. 6). The Local Authority may appoint a committee of their own body to act, as the Nuisances Removal Committee, two to be a quorum (s. 5; and

3, c. 85, s. 1). New inhabitants may vote in respect of property for which they are liable to be rated (58 Geo. 3, c. 69, s. 4); but no person is entitled to vote who shall not have paid the last poor rate actually charged upon him (Ibid. s. 5, explained by 59 Geo. 3, c. 85, s. 3), if such rate shall have been made or become due three calendar months or more immediately preceding such vestry meeting (16 & 17 Vict. c. 65, s. 1). A clerk or agent may vote for a corporation or company (59 Geo. 3, c. 85, s. 2).

The votes of parishioners in vestry are to be taken by show of hands or by poll. The chairman is bound to ascertain the numbers if requested, for his decision is not conclusive on a show of hands (*R.* v. *St. Pancras*, 11 Ad. & E. 15). A poll is demandable as of right, and, if demanded, should, in the absence of other business, be taken immediately; but if, from the number present, time does not allow of this, the chairman may, on his own authority, adjourn the meeting for the purpose, so as to give all persons entitled a reasonable opportunity of voting (*R.* v. *D'Oyley*, 4 P. & D. 58; 12 Ad. & Ell. 139; *R.* v. *Bishop of Winchester*, 7 East. 573; *R.* v. *St. Mary, Lambeth*, 8 Ad. & Ell. 356). And where due notice has been given that, in the event of a poll being demanded, the meeting will be adjourned to another building to take the same, the chairman may adjourn for the purpose (*Baker* v. *Wood*, 1 Curteis, 507; *R.* v. *Archdeacon of Chester*, 1 Ad. & Ell. 342), but he cannot adjourn against the wishes of the majority, no such notice having been given, so as to disturb the regular order of the proceedings, the general right of adjournment being in the meeting (*Stoughton* v. *Reynolds*, 2 Stra. 1045). Where under a local Act a question was to be determined by the major part of the vestrymen, it was held that it must be an actual majority present, not merely of those voting, others remaining neuter (*R.* v. *Christchurch*, 7 E. & B. 409). If an amendment be carried by show of hands, and lost on a poll, the original motion is not therefore carried, but should be also put to the meeting, and a show of hands taken upon it, when the poll may be taken on each question, for and against, at the same time (*Elt* v. *The Burial Board of Islington*, 1 Kay, 449).

A vote taken after misstatement of an important point is void, and must be taken over again (*Re Egham Burial Board*, 3 Jur. N. S. 956). The chairman shall sign the proceedings. On refusal to grant a poll, he may be compelled by mandamus. A rule made by one vestry for the regulation of its proceedings is not binding on a succeeding one; nor is the confirmation of a succeeding vestry necessary to make the legal acts of a preceding one valid; and in the case of *Mawley* v. *Barbet*, (2 Esp. N. P. 687), it was held that a vestry had no power to rescind an appointment of churchwardens made at the preceding vestry.

The statutes for regulating vestries have not taken away the common law right of voting by a poll (*R.* v. *St. Mary, Newington*, 17 L. J. N. S. 220; *Campbell* v. *Maund*, 5 Ad. & Ell. 865). Where a poll was refused, and a

18 & 19 Vict. c. 121, s. 5). During any vacancy in such committee the remaining members may act (ib. s. 4).

### DISEASES PREVENTION ACTS.

The Local Authority to execute these Acts shall be the Guardians of the poor; where no Guardians, the Overseers, who may appoint a committee in like manner as for nuisances, save that the Privy Council may authorise any Local Authority under the Nuisances Act to execute the Diseases Prevention Act (23 & 24 Vict. c. 77, s. 11). Save also in the Metropolis (ss. 10, 11).

### METROPOLIS MANAGEMENT ACTS.

For the Local Government of the Metropolis, a Vestry is to be elected in every metropolitan parish beyond the City of London (18 & 19 Vict. c. 120, s. 2; and 25 & 26 Vict. c. 102, s. 36); for which purpose the parishes are divided into wards (18 & 19 Vict. c. 120, ss. 3, 4); the number of qualified persons (s. 6) elected for each ward having been apportioned by the Secretary of State (s. 4), may be altered in certain cases by the Metropolitan Board of Works (s. 5): one-third of such Vestry to retire annually (ss. 9, 10; 25 & 26 Vict. c. 102, ss. 39 to 41). Auditors also are to be elected by the ratepayers (ib. s. 38; and 18 & 19 Vict. c. 120, ss. 11, 12). Mode of conducting elections (ss. 13 to 30). District Boards of Works to be elected by the parish Vestries (ss. 31 to 41). Such Boards to be incorporated, &c. (s. 42). The Metropolition Board of Works, to be incorporated, and to be elected by the City Corporation and the Vestries above described, one-third to retire annually (ss. 43 to 48); such Board to elect their chairman and fix his salary (ss. 49, 50).

church-rate made for providing a new burial ground, which proceeding was upheld by the Ecclesiastical Court, under 3 Geo. 4, c. 72, s. 25, and 59 Geo. 3, c. 134, s. 26, the Court of Common Pleas granted a prohibition on the ground that those statutes did not take away the common law right to a poll in such a case (*White* v. *Steele*, 31 L. J. C. P. 265. As to select vestries, see 59 Geo. 3, c. 12, and 1 & 2 Will. 4, c. 60; also *R.* v. *Peters*, and *R.* v. *Gladstone*, note, p. 94).

BATHS AND WASHHOUSES ACTS.

[See "Baths and Washhouses."]

RECREATION GROUNDS AND PUBLIC IMPROVEMENTS ACTS.

[See "Public Pleasure Grounds."]

COMMON LODGING HOUSES AND LABOURING CLASSES LODGING HOUSES ACT, AND LABOURERS' DWELLINGS ACT.

[See "Common Lodging Houses."]

THE BURIAL ACTS.

[See "Burial Grounds."]

## MAIN SEWERAGE.

PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In any place to which the Public Health and Local Government Acts are applied, all sewers (*a*) existing when the Acts were applied, or made thereafter (except such were made by any persons for profit, or for improving land under any local Act (*b*), or under the authority of any Commissioners), together with all buildings, &c., belonging thereto, are to vest in and be entirely under the control of the Local Board of

(*a*) Formerly the duties of Commissioners of Sewers were confined to the supervision and clearance of navigable streams and the prevention of encroachments from the sea. The derivation of "Sewer" has been variously given, as from "*Sew*" a drain; as from the French *Seoir*, to sit, and *Eau*, water; as from *Suivre*, to follow; and as from the Saxon *Sa-wær*, sea-fence; but the use of the word to describe the main drain of a town is a comparatively modern innovation, from which arises the term "*Sewerage*" when speaking of the construction of such main drains, and "*Sewage*" as indicating their contents. By the Common Law the owner of lands abutting upon the sea, or navigable rivers, is bound to keep all channels and defences in proper order, so as to prevent any hindrance to the navigation or encroachment upon the land (see 13 Rep. 33).

(*b*) A natural watercourse through lands within the ambit of a borough, which stream had been widened and deepened under a local Act, received the drainage of a few houses: Held, if a sewer at all, which was doubted, to be within the exception in s. 43 of the Public Health Act (*R.* v. *Godmanchester L. B.*, 5 New Reports, 114).

Health (11 & 12 Vict. c. 63, s. 43); and such Board may purchase the rights, &c., vested in any person for making sewers, or contract for the use of sewers within their District, or purchase sewers with or without buildings, &c., the purchase-money to be applied to the same uses to which the property might have been subject at the time of sale; any perpetual right previously acquired for the use of any such sewer, or other substituted in lieu thereof, to remain (s. 44).

The Local Board are to repair the sewers vested in them, and cause sewers to be made for effectually draining their District, and may carry such across or under any road, street, &c., or cellar under any street; and after reasonable notice, and upon advice of the Surveyor, through or under any lands (*a*); and may alter or improve any such sewers, or destroy such as they

(*a*) For the purpose of protecting lands, &c., from irruptions of the sea, and for draining off superfluous waters, Commissioners of Sewers, where required, may be appointed under the 3 & 4 Will. 4, c. 22—amended by 4 & 5 Vict. c. 45, and 12 & 13 Vict. c. 50—with power to make and maintain walls, banks, sewers, drains, &c., &c.; and to require owners, &c., to keep the same clear of mud, weeds, &c., and to do necessary works in default. All necessary powers of taking land, making rates, &c., being conferred for the purposes of these Acts. Under the older statutes Commissioners of Sewers were empowered to distrain on any freehold lands for payment of charges in arrear; and by the 7 Anne, c. 10, this power was extended to copyholds. Under the Land Drainage Act, 1861 (24 & 25 Vict. c. 133), such Commissioners may be appointed upon the recommendation of the Inclosure Commissioners to act within their assigned areas (s. 4) for the cleansing and maintenance of watercourses, outfalls, &c., or improving or removing obstructions from the same, or the construction of new works (s. 16), who may levy rates for those purposes (s. 38). Persons allowing any foul or poisonous liquid to contaminate any watercourse within such jurisdiction, having no prior legal right, liable to penalty of £5 (s. 58).

Where a Local Board entered upon land without the consent of the owner to make reservoirs and beds for depositing sewage, the Court granted an injunction to restrain them (*Sutton* v. *Mayor of Norwich*, 27 L. J. Ch. 739).

In *Scott* v. *Manchester Corporation* (1 H. & N. 59; 26 L. J. Ex. 132—406), it was held that a corporation employing workmen to lay down gas-pipes is responsible for the negligence of the men employed: Alderson, B. "The person who selects the workmen is the party liable. Commissioners may get rid of liability by making contracts; but if they employ their own servants to do the work they will be liable for the acts of such servants" (see *Hall* v. *Smith*, 2 Bing. 156, 9 Moore, 226; *Harris* v. *Baker*, 4 M. & Sel. 27; *Metcalfe* v. *Hetherington*, 11 Exch. 257).

may deem unnecessary, so that it be done as not to create a nuisance, and that any person deprived of the use of any sewer be provided with some other as effectual for his use (s. 45). The powers of the Towns Improvement Clauses Act with respect to precautions during the construction, &c., of sewers, &c., are incorporated (21 & 22 Vict. c. 98, s. 44); under which Act the Board is to guard against accident during the construction or repair of sewers, &c., by shoring up houses and fencing and lighting at night any excavations, &c., for the purpose (10 & 11 Vict. c. 34, s. 79). The Board may cause a map to be prepared exhibiting a system of sewerage for draining their District, to be kept at their office, and open to inspection (11 & 12 Vict. c. 63, s. 41). The expense of all maps, surveys, plans, &c., is to be paid out of the General District Rates (s. 42). Such Local Board may, with the consent of the Authorities in any adjoining District, execute such works therein as they may within their own District, upon such terms as to payment as may be agreed upon, out of the rates authorised to be raised by such Authority (21 & 22 Vict. c. 98, s. 28). Such Board may exercise such powers also without their District, for the purpose of outfall or distribution of sewage, upon making compensation; but are not to convey any sewage into any natural watercourse or stream until such sewage be freed from all foul matter as would affect the water in such stream (*a*), &c. (24 & 25 Vict. c. 61, s. 4).

(*a*) The Board have no power to construct sewers so as to cause the water of a canal to be fouled (*Manchester, &c., Railway* v. *Worksop L. B.*, 26 L. J. Ch. 245; 23 Beav. 198).

In all cases where a stream has been injuriously affected by the works of a Local Board under the Public Health Act, executed without the consent of the riparian proprietor, his remedy is by action and not by proceedings for compensation. Blackburn, J.—"The Local Board have made some sewers, under the Public Health and Local Government Acts, and have thereby caused more or less affection to a water-stream on which the plaintiff has a mill, to which (though not an ancient one) he had a right as riparian owner to have the water flow without being interfered with. And the question is, whether that interference by the defendants is a matter for which he is entitled to compensation under the Acts, because, if so, the *mandamus* ordering the defendants

Provided that three months' notice of the intended work must be given before its commencement, by advertisement in the newspapers usually circulated where the work is to be made, and served upon all owners, lessees, and occupiers of lands affected, and on overseers, &c., trustees and surveyors of roads, &c., with full description thereof, and a plan is to be open to inspection (s. 5). In case of objection served on the Board within the three months, such work is not to be commenced without the sanction of the Secretary of State (s. 6), who may appoint an Inspector to make inquiry and report thereon (s. 7). A drain may be made from premises near the District, to communicate with any sewer of the Board, upon terms to be agreed on, or to be settled in case of dispute by arbitration (11 & 12 Vict. c. 63, s. 48). Where premises without the District of the Board have a drain communicating with a sewer within such District, to the use of which the owner is not entitled, a yearly sum is to be paid, to be agreed on or determined by two Justices, such sum to be charged as Private Improvement Expenses, as if the premises were within the District, so long as the connection continue (24 & 25 Vict. c. 61, s. 8.) If any premises be sufficiently drained before any new sewer be laid down, the Board may deduct such sum as they deem just from the rates otherwise chargeable thereon (21 & 22 Vict. c. 98, s. 29). The Board are to cause the sewers vested in them

to make compensation would be right enough. If, however, it is not a matter for compensation, but for which the remedy, if any, is by action at Common Law, then the *mandamus* ought not to go. The general rule is, that where something is done which interferes with the rights of an individual, and would therefore be actionable at Common Law, but which has been authorised by the Legislature, there, though it is a *dammum* to the party affected, it is no longer an *injuria*, and the loss must fall on him. To prevent that injustice the Legislature has said in most of the Acts authorising interference with private rights, that the parties affected shall be compensated whenever they are injured by the exercise of the powers given by the statute, and where the thing done is authorised by the statute, the action at Common Law is taken away, and it is the object of compensation only. Where, however, the act done is not authorised by the statute, the action at Common Law remains. Our judgment must be for the defendants." (*Taylor* v. *Darlington L. B.*, 4 New Reports, 394.)

to be constructed, covered, and kept, so as not to be a nuisance or injurious to health, and to be properly cleansed, and may construct reservoirs, &c., and other works for the purpose, and cause such sewers to be emptied as may be fit, or the sewage to be sold, but so as not to create a nuisance (*a*) (11 & 12 Vict. c. 63, s. 46). Such powers may also be exercised without their District, for the purpose of outfall and distribution of sewage, upon making compensation (*b*), and the Board may contract for the sale or distribution of sewage, and purchase or lease any lands, &c., or apparatus, for storing, disinfecting, or distributing sewage (21 & 22 Vict. c. 98, s. 30). In case any foul ditch, &c., lie near so as injuriously to affect the District, the Board may apply to any Justice to summon the Authorities of the place, under the Nuisances Act, 1855, before the Justices of the county or borough, who may order the execution of any necessary works, by whom to be executed, or the proportion of costs to be borne, and the time of payment, to be a charge upon the poor-rates of such adjoining place, and leviable in default on the goods of the Overseers (s. 31). No person is to cause any drain to be emptied into any sewer of the Board, nor build over any such sewer, nor build any cellar under the carriage-way of any street without the written consent of the Board, under penalty of £5, and £2 for every day during continuance of the offence after notice; and the Board may alter, pull down, or deal with the same as they may think fit, at the expense of the offender (11 & 12 Vict. c. 63, s. 47). The Board may make Bye-Laws with respect to sewerage for new streets (*c*), &c., with such provisions as

(*a*) Where a Local Board had improperly executed works of sewerage under the provisions of the Public Health Act in that behalf, so as to cause a nuisance, it was held that an action against the Board might be maintained (*Itchin Co.* v. *Southampton L. B.*, 28 L. J. Q. B. 41). See also *Att.-Gen.* v. *Luton L. B.*, 2 Jur. N. S. 180; *Oldaker* v. *Hunt*, 6 De G. M. & G. 376, 1 Jur. N.S. 785.

(*b*) In the case of *Haywood* v. *Lowndes*, 4 Dr. 454, 28 L. J. Ch. 400, it was held that the Board had no power compulsorily to construct a sewer beyond their district.

(*c*) See suggested forms for Bye-Laws, p. 612.

they think necessary as to the deposit of plans, &c., by persons laying out streets, or as to the execution of works (21 & 22 Vict. c. 98, s. 34). The Board, after notice, may obtain authority from two Justices to enter or open any lands for surveying, taking levels, &c. (11 & 12 Vict. c. 63, s. 143), making compensation for any damage (s. 144). The Board are not to interfere with sewers or other works under any Commissioners, nor any rivers, canals, &c., to injure the navigation, &c., nor any watercourses or bridges, &c., or execute any works therein without consent of the Authorities (21 & 22 Vict. c. 98, ss. 68 and 71). But in certain cases disputes may be referred to arbitration (ss. 69 and 74). Companies in certain cases may divert sewers of the Board (s. 72).

In any Parish or Place containing less than 2000 inhabitants on the then last census, to which the Public Health and Local Government Acts have not been applied, not less than three-fifths of the ratepayers, at a public meeting called after fourteen days' notice by the Churchwardens and Overseers (such notice to be given by advertisement in the newspapers, and at the churches and chapels, and to contain a statement of the proposed works to be submitted for approval), may resolve that any pond, ditch, sewer, place, &c., containing drainage, filth, or offensive matter likely to be prejudicial to health, shall be drained, cleansed, covered, or filled up, or that a sewer shall be made or improved, a well dug, or a pump provided for public use; and the Churchwardens and Overseers are thereupon to procure a plan and estimate of such works, and lay the same before another such meeting called after like notice, and, if approved by a majority then present, they are to cause such works to be executed, and pay the cost out of the poor-rates of the parish (11 & 12 Vict. c. 63, s. 50).

### NUISANCES REMOVAL ACTS.

All such wells, pumps, &c., provided under sect. 50 of the Public Health Act, 1848, or otherwise, not being vested in any person or corporation other than officers of the place, are

vested in the Local Authority under the Nuisances Acts, who are to keep all pumps, &c., in repair, &c. (23 & 24 Vict. c. 77, s. 7). Penalty for damaging or fouling any such pump, well, &c., not exceeding 5*l.*, and not exceeding 20*s.* a day during continuance of offence (s. 8).

All Surveyors may cleanse ditches, &c., through any lands adjoining any highway (*a*), paying the owner for any damage (18 & 19 Vict. c. 121, s. 21). The Local Authority are to lay down sewers and repair the same in case they deem such necessary for the removal of filth or sewage, and may assess the owners for the expense as for highway rate not exceeding 1*s.* in the pound (s. 22) (*b*).

(*a*) By the Common Law, the owner of lands adjoining the highway is bound to keep the ditches cleansed and free from obstruction; 13 Rep. 33, 4 Inst. 261; *R.* v. *Dickenson*, 1 Saunders, 135; *R.* v. *Cross*, 2 C. & P. 483; 3 Campbell, 227. Under the Highway Act, 5 & 6 Will. 4, c. 50, the surveyor may make clean and keep open all ditches, and also make all necessary tunnels, bridges, &c., through any land adjoining the highway, paying for any damage (s. 67). Penalties for interfering with, or obstructing any such works (s. 68). Amount to be ascertained by the Justices (*Peters* v. *Clarson*, 7 Man. & G. 548).

(*b*) The Local Authority, however, have no power to assess property beyond the limits of their jurisdiction. As where drainage from a house in one parish runs into an open ditch in another parish, such house cannot be assessed by the authority in the latter parish covering in the ditch (*R.* v. *Tatham & Warner*, 8 E. & B. 915; 27 L. J. M. C. 144; 22 Jur. 609). See *R.* v. *Bodkin*, 30 L. J. M. C. 38; also, *R.* v. *Gosse*, 30 L. J. M. C. 41, where it was held that the highway rate could not be resorted to for sewerage works until the funds raised under s. 22, 18 & 19 Vict. c. 121, had been exhausted.

The limit of a shilling annually will not prevent a large work being distributed over a series of years (*R.* v. *Middleton Committee*, 28 L. J. M. C. 41; 5 Jur. N. S. 622). This rate need not be allowed or published as in the case of highway rates, and a composition of the rate is allowable (*R.* v. *Warner*, 6 E. & B. 395).

Where a sewer, which had become a nuisance, had been originally constructed of insufficient dimensions and at an improper level, it was held that the local authority could not, under a *mandamus* to repair, be compelled to construct a new sewer. *Per Curiam:* "The prosecutor is here really asking us to hold, that 'repair' means 'construction.' Repair does not, it is true, mean a mere restoration to exactly the same condition of things as existed originally; but the repairs which the prosecutor is here seeking to enforce, involve the construction of an entirely new set of works" (*R.* v. *Epsom Guardians*, 2 New Reports, 62).

## METROPOLIS MANAGEMENT ACTS.

All District Sewers, &c., in the Metropolis are vested in the Vestries or District Boards of Works (18 & 19 Vict. c. 120, s. 68), who are to maintain and repair the same, and execute any necessary works for the effectual drainage of their District, subject to the approval of the Metropolitan Board of Works (s. 69); save that the powers of the City Commissioners of Sewers remain (*a*), subject only to the powers of the Metropolitan Board (s. 242). And such works may be carried out beyond the Metropolis in certain cases (25 & 26 Vict. c. 102, s. 58), and the expenses divided with parties liable to repair in such cases (18 & 19 Vict. c. 120, s. 70). Proper traps for preventing the escape of effluvia are to be provided (s. 71; and 25 & 26 Vict. c. 102, s. 27). Owners and occupiers of lands may construct sewers, with approval and

(*a*) By the City Sewers Act, 11 & 12 Vict. c. clxiii. (amended by 14 & 15 Vict. c. xci, both local), repealing many previous statutes (s. 1), and incorporating the Lands Clauses Act, 1845, with certain exceptions (ss. 2, 3), it is enacted that the mayor, aldermen, &c., shall have the sole control over the sewers, &c., and shall appoint Commissioners for the purpose (ss. 5 to 9). Regulation of proceedings (ss. 10 to 24). Appointment and regulation of officers (ss. 25 to 32). Powers as to contracts (ss. 33 to 42). Accounts, inspection, and audit (ss. 43 to 48). Maps and surveys (ss. 49 to 51). All sewers are vested in the Commissioners (s. 52), who may construct main and other sewers, drains, &c., and other necessary works (s. 53); or alter the same (s. 54). Water Companies to supply water for flushing sewers, watering streets, &c. (s. 55). Powers for construction of private drains at the expense of the owners, and compelling the same to be provided, both for existing houses and new buildings (ss. 57 to 67, and 75). Gully-holes to be trapped (s. 68). Penalty for sweeping dirt into sewers (s. 69, and 14 & 15 Vict. c. xci., ss. 3, 4). Drains, privies, and cesspools to be under control and inspection of Commissioners' surveyor (ss. 70, 71). Penalty for constructing drains contrary to order of Commissioners (s. 72). Power of Commissioners of Sewers outside the City, to make communications into the City sewers, on remuneration, to be settled, in case of dispute, by the Board of Trade (ss. 73, 74). Penalty for allowing gas-washings, &c., to flow into any sewer, &c. (s. 76). Powers of rating for the purposes of the Act (ss. 168 to 206, and 14 & 15 Vict. c. xci. ss. 42 to 44, and 53 to 57). Borrowing powers, mortgages, &c. (ss. 207 to 229). Recovery of debts, damages, and penalties, and proceedings (ss. 230 to 260).

in manner prescribed (ib. ss. 44 to 51). As to expenses of sewers in new streets, and where none previously existed (ib. ss. 52 to 57). Temporary drains and cesspools may be required where no sewer exists within 200 feet (ib. s. 66). Penalties for encroaching upon, or obstructing any sewer, not exceeding 20*l.*, and 5*l.* a day during continuance (s. 68); like penalty for interfering with sewers (s. 69). All sewers to be kept clear (18 & 19 Vict. c. 120, s. 72). The Board may, in certain cases, order contributions to be made towards the cost of sewers constructed before the passing of the Act (s. 80; and 25 & 26 Vict. c. 102, s. 59). When time is given, a register to be kept (ib. s. 60). Any District Board may transfer their powers and duties in relation to sewerage, &c., to the Metropolitan Board of Works, with their consent (ib. s. 28; and 18 & 19 Vict. c. 120, s. 89). All main sewers are to vest in such Metropolitan Board, who have full powers to construct new sewers (*a*) (s. 135); and they may declare sewers of District Boards main sewers (s. 137), and make orders for the guidance of such District Boards in the construction of sewers, &c. (s. 138); and may make Bye-Laws for the purpose (25 & 26 Vict. c. 102, s. 83). The Metropolitan Board are to do all works for preventing sewage from passing into the Thames (21 & 22 Vict. c. 104, ss. 1 and 2, and may deodorize such sewage (ss. 3 and 23); such new sewers to be complete by the 31st December, 1866 (26 & 27 Vict. c. 68, s. 6). Works in the Thames to be approved by the Lord High Admiral and the Conservators of the river (21 & 22 Vict. c. 104, ss. 27 to 29); or in the Lea by the trustees in certain cases (s. 30). The Treasury may appoint Engineers to inspect and report on the works of the Board (s. 9).

(*a*) The Metropolitan Board of Works are not authorised to create a nuisance in the execution of works directed by the 135th sect. of the Metropolis Management Act, nor does the 31st sect. of the 21 & 22 Vict. c. 104, take away the power of any person to prosecute the Board for a nuisance so created by them, but only gives an easier remedy to persons unwilling to prosecute at their own expense (*Att.-Gen.* v. *Metropolitan Board*, 2 New Reports, 312).

# HOUSE DRAINAGE.

## PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In order to secure the proper Drainage of Houses, it is enacted that within the District of any Local Board of Health no house shall be built, nor any house which may have been pulled down to the ground floor shall be rebuilt, nor any such new house occupied, until a covered drain be constructed, of such size, materials, level, and fall, as the Surveyor shall report sufficient; and if the sea, or a sewer of the Board, or one they are entitled to use, be within 100 feet of such house, the drain shall communicate therewith as they shall direct; or if there be no such means, such drain shall run into such covered cesspool, not within such distance from any house, as they shall direct. Penalty for violation 50*l.*, recoverable with costs by action of debt. And if any house be without such proper drain, and the sea, or such a sewer be within 100 feet thereof, the Board shall cause notice to be given to the owner or occupier, requiring him within a specified time to lay down one or more drains of such materials, size, level, and fall, as by their Surveyor's report shall appear necessary; and if such notice be not complied with, the Board may do the works at the expense of the owner, recoverable in a summary manner, or as Private Improvement Expenses (11 & 12 Vict. c. 63, s. 49). No house shall be built or rebuilt without a sufficient watercloset or privy, and an ashpit with proper doors and coverings, under a penalty of 20*l.*; and if any house within the District is without such sufficient appliances, the Board may, in like manner as in the case of a drain, require the same to be furnished, or in default execute the works at the owner's expense: Provided, that where one watercloset, &c., is used by the inmates of two or more houses, or may be so used in the opinion of the

Board, they need not require the same to be provided for each house (s. 51).

In Factories, waterclosets or privies for persons of each sex may be required, under penalty not exceeding 20*l.*, and not exceeding 2*l.* for every day during default (s. 52). The Board shall see that all drains, waterclosets, &c., cesspools, and ashpits, are kept so as not to be a nuisance or injurious to health: and may authorise their Surveyor, upon the written application of any person stating the contrary to be the fact, and after twenty-four hours' notice, or on emergency without notice, to enter the premises and lay open the ground, &c.; and if the same be found in bad condition, or require amendment, the Board may cause notice to be given to the owner or occupier requiring him within a specified time to do the works necessary, under penalty not exceeding 10*s.* per day during default; and the Board may execute the works at the owner's expense, recoverable in a summary manner, or as Private Improvement Expenses (*a*) (s. 54; and 21 & 22 Vict. c. 98, s. 33). The Board may make Bye-Laws (*b*) with respect to the sewerage of new streets and the drainage of buildings, waterclosets, privies, ashpits, and cesspools in connection with buildings, with such provisions as to giving notices, or for the execution of works, as they think necessary, &c. (21 & 22 Vict. c. 98, s. 34).

The Board may give notice, requiring the owner or occupier of any house to whitewash, cleanse, or purify the same, in case it appears on the certificate of their Medical Officer, or any two Medical Practitioners, that such house is in such a filthy, or unwholesome condition that the health of any person is affected thereby, or that such purification would prevent or

(*a*) Where a Local Board had ordered certain works to be executed under s. 54 of the Public Health Act, the whole of which were not considered necessary, and therefore the part thought unnecessary had not been executed, whereupon the Justices refused to convict;—it was held, that the discretion as to the nature and extent of the works required to be done is vested in the Local Board rather than in the Justices, and, therefore, that the Justices were wrong in assuming jurisdiction to review the determination of the Board (*Hargreaves* v. *Taylor*, 1 New Reports, 472). See note, p. 42.

(*b*) See suggested forms for Bye-Laws, p. 614.

check infectious disease; and if such person fail to comply within the time specified, he is liable to a penalty not exceeding 10*s.* a day during default, and the Board may execute the work at his expense, recoverable in a summary manner (11 & 12 Vict. c. 63, s. 60). The Board may allow time for repayment of any expenses incurred on account of any premises for which the owner is liable, or take the same by annual instalments, not being less than one-thirtieth part (ib. s. 146).

### METROPOLIS MANAGEMENT ACTS.

The Vestries and District Boards of Works in the Metropolis may require the owner of any house not properly drained, to communicate with the sewer, and in his default the Board may execute the necessary works at the expense of such owner (18 & 19 Vict. c. 120, s. 73), who shall also be liable (at the option of the Board) to a penalty not exceeding 5*l.* for neglect, and 40*s.* a day during continuance of such default (25 & 26 Vict. c. 102, s. 64). Blocks of houses may be drained together (18 & 19 Vict. c. 120, s. 74). No house shall be built without proper drains (s. 75). Before commencing any new drains, &c., seven days' notice must be given to the Board, by whom any works not properly constructed may be destroyed or altered (s. 76), under penalty not exceeding 5*l.*, and 40*s.* a day during neglect (25 & 26 Vict. c. 102, s. 88); the decision of the Board thereon to be notified within fifteen days after receipt by them of such notice (ib. s. 63). No person is to make or open any drain or sewer without consent and approval of the Board, under penalty not exceeding 50*l.*, and any drain so constructed may be cut off and re-made by the Board, at the expense of the owner (s. 61). The Board may connect any drain with the sewer at the owner's expense (18 & 19 Vict. c. 120, s. 78), and agree to make house drains (s. 79). No house shall be built or rebuilt without a proper watercloset or privy, and ashpit (*a*), with suitable water and apparatus,

(*a*) By the City Sewers Act, ss. 99 to 103 (see note, p. 37), and 14 & 15

under penalty not exceeding 20*l.*; and any house may, in default, be so provided by the Board (*a*), at the expense of the owner or occupier (s. 81), who is also liable, at the option of the Board, to a penalty of 5*l.*, and 40*s.* a day during continuance of such default (25 & 26 Vict. c. 102, s. 64). All drains, &c., may be inspected (18 & 19 Vict. c. 120, s. 82). Penalty, for injury or alteration of any drain or works, &c., not exceeding 10*l.*, and necessary works may be executed at the expense of the offender (ss. 83 to 85; 25 & 26 Vict. c. 102, s. 64). Where no sewer within 200 feet, temporary drains and cesspools to be provided (ib. s. 66).

## WATER SUPPLY.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

To provide for the proper supply of wholesome water it is enacted that in Districts to which the Public Health and Local Government Acts are applied, the Local Board of Health may provide a sufficient supply of water for their purposes and for private use, and purchase, hire, construct, maintain, &c., such waterworks, &c., as shall be necessary, or contract with any company, after notice, for a supply which may be laid on at high pressure to the top of all dwellings; but the Board may not construct such waterworks within the District of any established company, in case such company are willing to supply the water required on reasonable terms, to be settled by arbitra-

Vict. c. xci., ss. 28 to 30, the Commissioners may compel Privies and ashpits to be provided, repaired, and cleansed.

(*a*) Under s. 82 of the Metropolis Management Act, the vestry may require the provision of sufficient watercloseta, and may recover the expenses of constructing the same in default (*St. Luke's Vestry* v. *Lewis*, 1 B. & S. 865; 31 L. J. M. C. 73). Each case, however, must be decided by the Surveyor on its merits;—see *Tinkler* v. *Wandsworth Board*, 27 L. J. Ch. 342; 4 Jur. N. S. 293, where it was held that the Board were not authorised in requiring watercloseta to be substituted for privies in all cases according to a general rule of the Board without special inquiry into the circumstances.

tion in case of dispute (11 & 12 Vict. c. 63, s. 75). The Board, on the report of their Surveyor, may give notice requiring the owner of any house to obtain, within a specified time, such a supply of water as can be furnished at 2*d.* per week, and if not complied with the Board may execute the necessary works, the expense to be recoverable as Private Improvement Expenses, and levy water-rates upon the premises not exceeding 2*d.* per week, or to the extent authorised by any local Act (s. 76; and 21 & 22 Vict. c. 98, s. 51). Where no companies are established the Board may make agreements for the supply of water to persons, with the same powers for recovering water rents, as rates (*a*) (24 & 25 Vict. c. 61, s. 20). Where the Board supplies water to their District they have the same power for carrying water mains as for sewers (21 & 22 Vict. c. 98, s. 52). The Directors of any Waterworks Company (with the authority of three-fifths of the shareholders present personally or by proxy at a special meeting for the purpose) may sell all their property, rights, &c., to any Local Board (s. 53). The powers of the Towns Improvement Clauses Act with respect to water supply are incorporated (ib. s. 44); under which Act the Board shall maintain all existing public cisterns, pumps, &c., for the gratuitous supply of water to the inhabitants of the District, and may construct others for like purposes (10 & 11 Vict. c. 34, s. 121). They may contract with the owners of waterworks for all necessary supplies (s. 122), and in case of dispute the price to be settled by arbitration (s. 123). The Board shall cause fire-plugs and all necessary works and water in connection therewith to be provided and maintained, and indicate the situation thereof (s. 124). The Board may supply

(*a*) Where under a Local Act incorporating the Waterworks Clauses Act, a company were required to furnish water to occupiers of houses who should "demand a supply of water for domestic use," at rents fixed according to the poor-rate assessment—and an occupier applied for his horse and washing his carriage, water so supplied for domestic use—the coach-house and stable being part of his premises assessed to the poor-rate: it was held that he was entitled to do so, such being a domestic use within the statute (*Busby* v. *Chesterfield*, 1 E. B. & E. 176; 27 L. J. Q. B. 238; 22 Jur. 757).

water from any works belonging to them to any Public Baths or Wash-houses, or for trading or manufacturing purposes (11 & 12 Vict. c. 63, s. 77). They may cause all existing cisterns, pumps, &c., used for gratuitous water supply to be continued, maintained, &c., or substitute other works equally convenient (*a*), and construct new cisterns, pumps, &c., for the gratuitous supply of any Public Baths or Wash-houses not established for private profit or supported out of rates (s. 78); and may at the option of the Vestry be the Commissioners for the execution of the Public Baths and Wash-houses Act within their District (21 & 22 Vict. c. 98, s. 47). Penalty for injuring waterworks constructed under the Act, diverting streams, or wasting water supplied, not exceeding 5*l.*, and 20*s.* a day during continuance of offence after notice (11 & 12 Vict. c. 63, s. 79). Like penalties for bathing in or fouling streams or any waterworks maintained under the Act. Gas proprietors suffering washings from their works to foul streams or waterworks to forfeit 200*l.*, and 20*l.* a day during continuance, after twenty-four hours' notice. And if any water be fouled in any manner by the gas of any such proprietor he shall forfeit not exceeding 20*l.*, and not exceeding 10*l.* a day during continuance of offence after like notice (*b*) (s. 80). Saving of rights of water companies, &c. (21 & 22 Vict. c. 98, s. 73).

(*a*) Where a Company, authorised by their special Act to carry an aqueduct through certain land, proceeded, under the powers of the Waterworks Clauses Act, which were incorporated, to sink a well and erect pumps on such land: Held, that they were so entitled (*Simpson* v. *South Staffordshire Water Company*, 5 New Reports, 70). A Local Board supplied a public fountain with water for the use of cattle on market days, which fountain had been used by a horse-keeper, who thereby evaded the fixed charge per horse for water if supplied to his stables, in contravention of the 59th sect. of the Waterworks Clauses Act, incorporated with the Local Act under which the Board was constituted;—the Magistrates having refused to convict, on the ground that the Board had no power to erect a fountain on the public highway, except for the gratuitous use of the public:—Held on appeal, that this was wrong, for whether the fountain were a public nuisance or not, the Board were at liberty to supply it with water on their own conditions (*Hildreth* v. *Adamson*, 8 C. B., N. S., 587; 30 L. J. M. C. 204).

(*b*) By the Water Works Clauses Act (10 Vict. c. 17) the fouling of any water

### NUISANCES REMOVAL ACTS.

Under the Nuisances Acts a penalty of 200*l.* is imposed on any person or company who shall suffer any stream or place for water to be fouled by gas washings (18 & 19 Vict. c. 121, s. 23), recoverable by the owner, or in default by the Local Authority. [See "Constitution of Local Authorities."] (s. 24). Further penalty of 20*l.* a day, after notice, during continuance of such fouling (s. 25) (*a*). No powers under these Acts to affect the navigation of rivers, canals, &c., nor extend to mines (s. 44); nor affect the supply of water to any water-work or mill, &c., without consent (s. 45.)

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis the Vestry or District Board may cause any Well to be dug in any public place, and erect pumps for the gratuitous supply of water to the inhabitants (18 & 19 Vict. c. 120, s. 116) (*b*). They can also compel the owner or occupier of any house not supplied with water to obtain a supply, or do the necessary works at his expense (*c*), and the

belonging to the undertakers (*i.e.*, Company by whose Local Act these clauses may be incorporated) is prohibited, and extends to bathing, washing dogs and other animals, throwing dirt, rubbish, &c., washing of skins or clothes, as well as sewage or other filthy water (s. 61).

A private Gas Act imposed penalties in case the company should "cause or suffer to be conveyed or to flow" into any stream, &c., gas-washings, &c.; —their tank had been erected in ignorance of the fact of mines having been formerly worked under their lands, whereby, the tank being out of repair, the plaintiff's well had become polluted by percolation: held, that the Company were liable to the penalty for polluting the water (*Hipkins* v. *Birmingham Gas Co.*, 5 H. & N. 74; 30 L. J. Exch. 60; 6 Jur. N. S. 173).

(*a*) Where refuse was poured into a river, which in consequence created a nuisance by polluting the water in an adjoining parish, the Local Authority of which proceeded under 18 & 19 Vict. c. 121, s. 12, for an abatement of the nuisance: it was held that the cause not having arisen within the area of the Local Authority, the Justices had no jurisdiction in the case (*R.* v. *Cotton*, 28 L. J. M. C. 22).

(*b*) By the City Sewers Act, s. 56 (see note, p. 37) Water Companies are required to supply public baths, &c., within the City on receiving proper remuneration, and without prejudice to domestic supplies.

(*c*) By the City Sewers Act, ss. 105 to 107 (see note, p. 37), and 14 & 15 Vict. c. xci., s. 31, cisterns are to be provided by the owners of houses.

water company shall supply the same, &c. (25 & 26 Vict. c. 102, s. 67). The Vestry or Board may provide and supply drinking fountains (s. 70).

### PUBLIC HEALTH ACT.

In any parish or place containing less than 2000 inhabitants, to which the Public Health and Local Government Acts have *not* been applied, the ratepayers may resolve that a Well shall be dug or a pump provided for public use, and the Churchwardens, &c., are thereupon to procure a plan and estimate, and on approval cause the works to be executed out of the poor-rates (11 & 12 Vict. c. 63, s. 50). All such wells, pumps, &c., are vested in the Local Authority, under the Nuisances Acts, who are to keep all pumps, &c., in repair, &c. (23 & 24 Vict. c. 77, s. 7). Penalty for damaging or fouling any such pump, well, &c., not exceeding 5*l.*, and not exceeding 20*s.* a day during continuance of offence (s. 8).

### THE METROPOLIS WATER ACT.

For securing pure water in the Metropolis (which by the schedule extends to Hammersmith, Tottenham, Bromley, Woolwich, Lewisham, Tooting, &c.), it is enacted that no water shall be taken by any Company supplying any part of the Metropolis with water for domestic use from any part of the Thames below Teddington Lock, or from any tributary below the highest point where the tide flows (15 & 16 Vict. c. 84, s. 1). Every reservoir for storing such water, not more than five miles from St. Paul's, shall be covered, unless the water be subject to filtration after its discharge from such reservoir (s. 2). No such water shall be conducted otherwise than through pipes or covered aqueducts, unless afterwards filtered before distribution (s. 3). All such water shall be effectually filtered before passing into the pipes for distribution, except such as may be pumped from wells into covered reservoirs, and not mixed with unfiltered water (s. 4). Prior to resorting to any new source of supply, any Company shall give three months'

notice to the Board of Trade, within one month after which the Board may appoint an Inspector to report thereon (ss. 5, 6), and certify their approval or the contrary (s. 7). After disapproval the Company must not use such source (s. 8). The Board of Trade may also, on complaint of twenty ratepayers, inquire as to the quantity or quality of the water supplied by any Company (ss. 9, 10). Penalty not exceeding 10*l.* for obstructing Inspector (s. 11). If well founded, the Company must remove the grounds of complaint (ss. 12, 13). Every steam-engine of any Company is to be constructed to consume its own smoke (s. 14). Subject to the provisions of any special Act, every company is to keep in their mains a constant supply of pure water, sufficient for the use of all houses supplied at such pressure as will make the water reach the top story of the highest house (within certain limits in the case of the Kent, Hampstead, and East London Companies), if so required by four-fifths of the owners or occupiers of such houses, they being first supplied with arrangements for such distribution, which may be ascertained by the Company's Surveyor—provided that, with consent of the Board of Trade, such supply may be given in succession to the districts of the Company; and they may cut off such supply, after notice, from any house not provided with arrangements in conformity with their regulations (s. 15). Any Company shall be liable to a penalty of 200*l.* for non-compliance, and 100*l.* a month during neglect (s. 16). Every Company shall keep a map of the mains in their district open to inspection (s. 17), and furnish information thereon to any person supplied (s. 18). Yearly accounts to be kept and audited, and a copy furnished to the vestry clerk of every parish, under penalty of 20*l.*, &c., and open to inspection, by any person, on payment of 1*s.* (s. 19). The Board of Trade may prosecute any Company for violation of the provisions of the Act (ss. 20, 21). Where water is constantly laid on all houses are to be supplied with proper apparatus for preventing waste or undue consumption, &c., which may be inspected by the Surveyor, and in case of non-repair, after notice, the supply may be cut off (s. 22).

Every receptacle supplied must be so constructed as to prevent waste or undue consumption, and the return of foul air into the pipes, otherwise such cisterns, &c., may not be supplied (s. 23). No person to lay down pipes without notice to the Company (s. 24). The supply may be cut off, in case of wilful waste or contamination of the water by any person, against whom damages may also be recovered (s. 25). Companies may make regulations, with the approval of the Board of Trade, as to size and use of pipes, &c., to prevent waste, &c. (s. 26). The owner or occupier of any house not supplied with water may be required by the Churchwardens or Overseers (with the consent of the Vestry) of the parish to obtain such supply and do all necessary works within a time specified by notice, and in case of non-compliance the Churchwardens, &c., may execute such works at the expense of the owner, recoverable in like manner as poor-rates; and the Company must supply such house at a rate, after deducting an allowance of 20 per cent., not exceeding 3*d.* per week, payable by the owner or his agent (s. 27).

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## BATHS AND WASH-HOUSES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In Districts to which the Public Health and Local Government Acts are applied, the Local Board of Health may supply water from any works belonging to them to any Public Baths or Wash-houses (11 & 12 Vict. c. 63, s. 77). They may also construct new cisterns, pumps, &c., for the gratuitous supply of such Baths or Wash-houses not established for private profit or supported out of rates (s. 78); and the Local Board may, at the option of the Vestry, be the Commissioners for the execution within their District of the Public Baths and Wash-houses Acts (21 & 22 Vict. c. 98, s. 47). The Board may make Bye-Laws with respect to any public bathing-place within their Dis-

trict, for regulating the position and use of Bathing Machines (*a*), Boats, &c. (Ib. s. 44; and 10 & 11 Vict. c. 89, s. 69).

### BATHS AND WASH-HOUSES ACTS.

To encourage the establishment of Public Baths and Wash-houses, it is enacted by the 9 & 10 Vict. c. 74, that the Council of any Borough, or Commissioners appointed with the approval of the Secretary of State, in any parish, upon resolution of two-thirds of the ratepayers voting at a Vestry specially called for the purpose (ss. 3 to 11), may erect or convert any buildings into Public Baths and Wash-houses, with or without open drying grounds, and make any open bathing places and supply the same with all requisite furniture, conveniences, &c. (*b*) (s. 25). For which purpose they may appoint officers (s. 12), and shall keep minutes of their proceedings (s. 13), and accounts open to inspection (s. 14), to be duly audited, &c. (s. 15). Any expenses above receipts, except in Boroughs, to be paid out of the poor-rate upon order of the Vestry (ss. 16 and 17). Any receipts beyond expenses to be paid in aid of the poor-rate (s. 18). Several parishes may concur in providing Baths, &c. (s. 19). Commissioners incorporated (s. 20) may borrow money on security of the rates (s. 21), which the Public Works Loan Commissioners may lend (*c*) (s. 22). The Companies Clauses

(*a*) Parts of the sea-shore at H. had been used from time immemorial for bathing, before machines were used. A Board under the Local Government Act incorporating the Police Clauses Act, (by which bathing except from licensed machines is prohibited,) licensed defendant to place his machines on plaintiff's part of the shore: Held, that the defendant had no right to do so. Erle, C. J.—"The statutes relied on are prohibitory only. For the sake of decency they have required that bathing should be subject to certain restrictions. But I cannot find that the restrictive provisions of the Acts take away any rights of the owners of the sea-shore." (*Mace* v. *Philcox*, 3 New Reports, 472.)

(*b*) Where injury was caused to a person who had paid for the use of a wringing machine, the dangerous condition of which had been pointed out, it was held that the Commissioners, who had undertaken a statutory duty (under the 9 & 10 Vict. c. 74), which bound them to exercise ordinary care in providing machines reasonably safe, were liable for the injury sustained. (*Cowling* v. *Sunderland*, Mayor, &c., 6 H. & N. 565.)

(*c*) See note, p. 126.

Act, 1845, with respect to Mortgages, Accountability of Officers, Bye Laws, Recovery of Damages and Penalties, &c., incorporated (s. 23) (*a*). Lands may be purchased with the sanction of the Vestry, and borough or parish lands may be appropriated with the approval of the Treasury (s. 24; and 10 & 11 Vict. c. 61, s. 4). Commissioners empowered to make contracts for the purposes of the Act in manner prescribed (9 & 10 Vict. c. 74, s. 26), or to purchase existing Baths, &c. (s. 27). Water and gas companies may supply such Baths, &c., gratuitously, or on favourable terms (s. 28).

(*a*) Under the Companies Clauses Act (8 Vict. c. 16), the Commissioners may borrow from time to time on mortgage or bonds (s. 38), and reborrow to pay off existing charges (s. 39). Mortgages and bonds to be under seal and stamped, &c. (s. 41). No mortgagee or obligee to have priority over another by reason of date (ss. 42, 44). Register of incumbrances and transfers to be kept, and be open to inspection (ss. 46, 47). If no time fixed by the instrument, such charges may be paid off after the expiration of twelve months on giving six months' notice, or payment may be demanded on like notice (ss. 51, 52). Accounts to be open to inspection of incumbrancers (s. 55). Commissioners shall take security from any officer entrusted with money (s. 109), who shall duly account (s. 110), and on failure may be summoned before two Justices, who may levy any balance by distress, or in default commit the offender without bail for not exceeding three months (s. 111). For refusing to deliver up books, &c., offender may be committed until he deliver them up (s. 112). [See note, p. 114.] If any officer about to abscond, warrant may issue (s. 113). Commissioners may make Bye-Laws, under seal, to be given to every officer affected thereby (s. 124); and impose penalties not exceeding 5*l.* for breach of such Bye-Laws (s. 125). Production of Bye-Laws under seal to be evidence (s. 127). Damages, costs, or expenses may be determined by two Justices, leviable after seven days by distress (s. 142). Any such distress against the Commissioners for not exceeding 20*l.*, may, after notice, be levied on the Treasurer (s. 143). One or two Justices may act (s. 144). Penalties under Bye-Laws to be printed on boards, and published on the premises (s. 145). Penalty for defacing such boards not exceeding 5*l.* (s. 146). All penalties may be recovered in a summary manner (s. 147), and levied by distress (s. 148). In default offender may be imprisoned not exceeding three months (s. 149). Mode of distress (s. 150). Not unlawful for want of form (s. 151). One-half of penalty may be paid to the informer, and the remainder for the benefit of the poor (s. 152), to be sued for within six months of the offence (s. 153). Damage may be recovered in addition to any penalty (s. 154). Witnesses failing to give evidence shall forfeit not exceeding 5*l.* (s. 155). Any offender whose name and residence is unknown may be apprehended by any officer or agent without warrant (s. 156). Conviction not to be quashed for want of form (s. 158).

Commissioners not to be personally liable (s. 29). If, after seven years, any such Baths, &c., be found too expensive, they may be sold, with the approval of the Treasury, for the benefit of the borough or parish (s. 32). Commissioners may make Bye-Laws, with the approval of the Secretary of State (s. 34), which are to be hung up in every bath-room, &c. (s. 35). The number of baths, washing-tubs or troughs, for the labouring classes, not to be less than twice the number supplied for any higher classes (s. 36; and 10 & 11 Vict. c. 61, s. 5). Charges to be made for the use of such baths, wash-houses, and bathing places, not exceeding, for the labouring classes, one penny for a cold and twopence for a warm bath. Bathing in an open bathing place, one halfpenny; and one penny for one, and threepence for two, hours' use of a washing-tub, copper and boiler, and drying conveniences (ib. s. 7).

## REMOVAL OF NUISANCES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

For the purpose of securing the proper Removal of Nuisances and means for periodical surface cleansing, Local Boards of Health may provide within their Districts boxes for the collection of dust, ashes, and rubbish; also places for the deposit of sewage, filth, dust, &c., collected by them (11 & 12 Vict. c. 63, s. 56). The Board may undertake or contract for the cleansing and watering of streets, removal of house refuse, cleansing of privies, ashpits, and cesspools; profits from the sale of such matters to be carried to the District fund account. Penalty for obstructing such removal, in case of the occupier of a house (except manure produced on his own premises, removed for sale, or applied to his own use, and kept so as not to be a nuisance), not exceeding 40*s.*; in case of other persons, not exceeding 5*l.* Where the Board do not undertake or contract for the cleansing of footways, or for such removal

and cleansing, they may make Bye-Laws (*a*) imposing such duty on the occupier of any such premises: also for the prevention of nuisances arising from snow, filth, dust, &c., or the keeping of animals so as to be injurious to the public health (21 & 22 Vict. c. 98, s. 32). The Board shall drain, cleanse, cover, or fill up all ponds, ditches, and places containing drainage, filth, or offensive matter, or likely to be prejudicial to health, and give notice to the person causing such nuisance, or the owner or occupier of the premises, requiring him within a specified time to perform the necessary work; and in case of failure, the Board shall execute the same, at the expense of such person, recoverable in a summary manner, or as Private Improvement Expenses, or out of the District rates (11 & 12 Vict. c. 63, s. 58). Any person keeping any swine or pigstye in any dwelling-house, or so as to be a nuisance, or who suffers stagnant water to remain in any dwelling-house for twenty-four hours after notice from the Board to remove the same, or allows the contents of any watercloset, privy, or cesspool, to overflow or soak therefrom, shall be liable to a penalty not exceeding 40*s.*, and 5*s.* a day during continuance of the offence; and the Board shall abate such nuisance at the expense of the occupier, recoverable in a summary manner. And if it appear to the Inspector of Nuisances that any manure or offensive matter ought to be removed, he is to give notice to the owner thereof, or the occupier of the premises, to remove the same; and if not removed within twenty-four hours the same is to be sold by the Board (s. 59) at the expense (if any beyond the proceeds) of the occupier, or, if none, the owner or the person causing the nuisance, recoverable in a summary manner, or as Private Improvement Expenses (21 & 22 Vict. c. 98, s. 32). Houses in an unwholesome condition may be purified by the Board (11 & 12 Vict. c. 63, s. 60). [See "House Drainage."]

(*a*) See suggested forms for Bye Laws, p. 619. The Board have no power to make a bye-law not warranted by the terms of the statute, nor will the approval of the Secretary of State render valid such bye-law. (*R.* v. *Wood*, 5 E. & B. 49; *same case*, *R.* v. *Rose*, 24 L. J. M. C., 130.)

## NUISANCES REMOVAL ACTS.

"Nuisance" (*a*) shall include any premises, pool, ditch, drain, ashpit, &c. animal, or accumulation, so kept as to be injurious to health (18 & 19 Vict. c. 121, s. 8). Notice of nuisance may be

(*a*) By the Common Law anything which causes injury to the neighbourhood, or to the natural rights of property, is a nuisance. No actual injury need have happened, it is sufficient if the thing complained of be likely to produce it. (*R.* v. *Vantandillo*, 4 M. & S. 73.) Thus a building so constructed as to exclude light from other buildings previously existing; any noxious manufacture polluting the air or water; the stoppage of a watercourse, &c., are nuisances. And it has been established by numerous decisions that no length of time will legitimate a public nuisance. The remedy is by indictment, or, in private nuisances, by action. (*R.* v. *Pappineau*, 1 Stra. 686; *R.* v. *White*, 1 Burr, 333.) But the nuisance may in certain cases be removed by the suffering party (*Earl of Lonsdale* v. *Nelson*, 2 Q. B. 311; *Jones* v. *Williams*, 11 M. & W. 176; *Perry* v. *Fitzhowe*, 8 Q. B. 776). Formerly, immediate and public nuisances were prevented or redressed by the Court Leet (a sworn Jury or Committee of not less than twelve inhabitants acting for the district), or Sheriff's Tourn (for the hundred), to whom presentments might be made in reference to public nuisances or encroachments on the highway, want of drainage and overcrowding in houses, unwholesome food, or any matter "touching common nuisances or offences against the general easements of the people, or against the health, &c., of the body politic" (4 Inst. 261); and the parties presented were required to abate the nuisance or pay an equivalent penalty. As to the repair of highways, however, such presentments were abolished by 5 & 6 Will. 4, c. 50, s. 99, and altogether the practice of holding Courts Leet, &c.—the power to hold which might be forfeited by either misuser or nonuser (4 Mod. 56)—has passed into desuetude; their business having chiefly devolved on the Quarter Sessions. It is not necessary that a public nuisance should be injurious to health, nor will the presence of one nuisance justify another; if there be smells offensive to the senses that is enough, as the neighbourhood has a right to fresh and pure air, so also have persons passing along the highway. (*R.* v. *Neil*, 2 C. & P. 85.) To prevent mischief, a Court of Equity will grant an injunction (*Broadbent* v. *Imperial Gas Co.*, 7 H. L. Cases, 612; *Potts* v. *Levy*, 2 Dr. 272; *Earl of Ripon* v. *Robart*, 3 My. & K. 169.) If, however, the application be delayed without a sufficient cause, it will be refused. Thus the owner of a house near a railway station allowed a siding to be used for unloading manure for three years without complaint, and after complaint of the nuisance suffered a fourth year to elapse before filing his bill for an injunction—no action at law having been brought. Held: that on the grounds of delay and acquiescence he was not entitled to the relief sought. Wood, V. C., observed, "the plaintiff having delayed to take any steps for four years, having brought no action to establish his legal right, having stood by and seen money laid out on the siding, and

given by any person aggrieved, or by the sanitary inspector, or two householders, the relieving officer, any constable, or lodging-house inspector, to the Local Authority [see "Constitution of Local Authorities"] (s. 10), who shall demand that the premises may be inspected between 9 a.m. and 6 p.m., and on refusal may apply to a Justice, after notice, who may authorise entry thereon, until such nuisance be abated, or any necessary works completed, or to remove the nuisance in case of noncompliance (s. 11). The Local Authority, in case of any nuisance existing, or likely to recur, shall summon the owner or occupier before two Justices, who may make an order thereon (*a*) (18 & 19 Vict. c. 121, s, 12), requiring any such nuisance to be abated, or any necessary works to be executed, and may prohibit the use of the premises for human habitation until made habitable (s. 13). Any inhabitant may lay like complaint, and Justices may authorise any constable to act therein (23 & 24 Vict. c. 77, s. 13). Penalty for noncompliance not exceeding 10*s.* a day, and for acting contrary to any order of prohibition 20*s.* a day; and the Local Authority may enter and execute such order at the expense of the offender (*b*) (18 & 19 Vict. c. 121, s. 14). Un-

the traffic increase, without making any objection, could not now be permitted to ask the Court to do what, in effect, would be to stop the traffic of the Company." (*Swaine* v. *Great Northern Railway*, 3 New Reports, 109.) On appeal this decision was affirmed by the Lords Justices. (3 New Reports, 399.)

(*a*) The owner of a market deriving profit from the placing of sheep which created a nuisance therein was held liable to an order to remove the nuisance existing by his "permission or sufferance." (*Draper* v. *Sperring*, 10 C. B. N. S. 113; 30 L. J. M. C. 225.) Both the cause and effect of the nuisance must exist within the limits of the district of the local authority; the Justices having no jurisdiction on complaint of such authority in respect of a nuisance existing or originating beyond such limits. (*R.* v. *Cotton*, 28 L. J. M. C. 22; 5 Jur. N. S. 311.) The order of the Justices for the abatement of a nuisance and to "do such works and acts as are necessary," is not an order involving permanent structural works, and consequently there is no appeal. (*Ex parte* the *Mayor of Liverpool*, 8 E. & B. 537; 27 L. J. M. C. 89; 22 Jur. 333.

(*b*) The local authority will not be compelled to enforce an order of Justices for abatement of a nuisance under ss. 10, 12 and 14, 18 & 19 Vict. c. 121; it is in their discretion. Thus a *mandamus* to the local authority for such

less objected to, no Justice shall be incompetent to act, in cases other than appeals, by reason of his being a member of such Local Authority (23 & 24 Vict. c. 77, s. 16). Justices may direct structural works to be executed, if necessary, under the direction of any public body having jurisdiction. Pending any appeal, no proceedings to be taken (18 & 19 Vict. c. 121, s. 16). Where owner cannot be found, such order may be executed by the Local Authority out of the rates (s. 17), who may agree with the Local Board of Health of any adjoining District for the execution by them of any works on payment by such Local Authority (21 & 22 Vict. c. 98, s. 28). Any matter removed by the Local Authority may be sold after notice, unless delay be prejudicial, when the Justices may order the immediate destruction or sale; any surplus after deducting expenses to be paid to the owner thereof (18 & 19 Vict. c. 121, s. 18). Costs of proceedings or the execution of works to be paid by the person causing the nuisance in manner prescribed (s. 19). Costs of proceedings and penalties incurred before Justices may be recovered by distress (*a*), &c. (s. 20).

abatement was refused. (*In re Ham L. B.*; 7 E. & B. 280; 26 L. J. M. C. 64; 21 Jur. 136.) To enforce penalties under s. 14 it is necessary to proceed by summons under s. 20 (*R.* v. *Jenkins*, 1 New Reports, 21). An agent who receives his authority subsequently to an order for the abatement of a nuisance on the premises of which he afterwards receives the rents, cannot be made liable in default for the expense of executing the necessary works by the local authority (*Warton* v. *Blything Guardians*, 1 New Reports, 272.)

(*a*) With regard to the recovery of penalties, as the Act does not provide the means, the proceedings will be regulated by the provisions of the Administration of Justice (No. 2) Act (11 & 12 Vict. c. 43), which consolidates the practice with respect to summary convictions before Justices. According to this statute, in all cases where information laid, a summons may be issued, and no objection shall be taken for want of form (s. 1). If disobeyed, warrant may issue (s. 2). Aiders or abetters liable to same penalties (s. 5). Attendance of witnesses may be compelled, who, on refusal to be examined, may be imprisoned not exceeding seven days (s. 7). Costs may be awarded to either complainant or defendant, recoverable by distress, and in default, imprisonment may follow, not exceeding one month, with or without hard labour (s. 18). On conviction, penalties may be levied by distress (s. 19), and, in default of sufficient distress, defendant may be imprisoned for any term not exceeding three months (s. 22). Information may be laid before one Justice,

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis, the Vestries or District Boards shall cause all pools, ditches, drains, &c., containing matter injurious to health, to be covered or filled up at the expense of the person causing such nuisance, or at their own expense, if reasonable; compensation to be made to any mill-owner for loss of water (*a*), &c. (18 & 19 Vict. c. 120, s. 86). In case any person neglect to execute any such works upon the order of the Board, he shall, at the option of the Board, forfeit not exceeding 5*l.*, and 40*s.* a day during continuance of default (25 & 26 Vict. c. 102, s. 64). The Board may appoint scavengers for the cleansing of streets and removal of dust, &c. (18 & 19 Vict. c. 120, s. 125). Penalty for refusing to allow such removal, not exceeding 5*l.*

who may thereupon summon the offender to appear before two Justices—compel attendance of witnesses, and do all other necessary acts preliminary to the hearing, before two Justices present and acting together; and after the hearing, one Justice may issue all warrants of distress or commitment thereon, though he be not one of the Justices who determined the case (s. 29). Sums recovered to be paid to the Treasurer of the County, &c., for which Justices shall have acted (s. 31). Metropolitan Police Magistrate or Alderman of London may act alone (ss. 33, 34).

(*a*) An action was brought against a District Board, acting under s. 86 of the Metropolis Management Act in the execution of sewerage works, for the fouling of a stream passing through their district and thereby polluting the water beyond their district: held, that the remedy is by compensation under s. 51, 18 & 19 Vict. c. 120. *Per Curiam:* Q. B. Cockburn, C. J., Wightman and Crompton, JJ. "The words of the 86th sect. are sufficiently large to embrace the injury done by the pollution of a stream, whether within the local limits of the district or without; and to hold that the present case does not fall within that provision would be virtually to establish that no Board of Health or Vestry could ever avail themselves, for the purpose of drainage, of a stream flowing beyond the local limits, if any damage should occur to proprietors or occupiers further down the stream. For if the work causing such injury beyond the boundary ceases, because of such injury, to be within the powers of the local authority, and therefore is actionable, the injury being a continuing one, fresh actions might from time to time be brought, and the work causing the damage would have to be undone. We cannot think that the legislature intended to place this restraint on the powers conferred by the Act; and we think, therefore, that it will be safer and better so to construe the Act as to make the powers of the local authority and the provision for compensation embrace such a case as the present" (*Cator* v. *Lewisham Board*, 3 New Reports, 638). On appeal to the Ex. Ch., however, this decision was

(s. 126). Such dust, &c., declared the property of the Board (s. 127). Like penalty for removal by unauthorised persons (25 & 26 Vict. c. 102, s. 89). Refuse of trades may be removed by agreement (18 & 19 Vict. c. 120, s. 128), to be settled, in case of dispute, by two Justices (s. 129). The Boards shall appoint Inspectors of Nuisances (s. 133), and the Vestry or Board shall be the Local Authority to execute the Nuisances Acts (s. 134). Penalty for sweeping rubbish, &c., into sewers or the Thames, not exceeding 5*l.* (s. 205). Works by the Metropolitan Board for deodorising sewage, not to create a nuisance (21 & 22 Vict. c. 104, s. 24). In case of nuisance in the execution of any works the Secretary of State may order a prosecution (s. 31). Penalty for keeping swine in improper places, or so as to be a nuisance, not exceeding 40*s.*, and 10*s.* a day during continuance (25 & 26 Vict. c. 102, s. 91). The Vestry or Board may contract for the removal of manure, &c. (*a*) (s. 95).

reversed: Erle, C. J., Byles and Keating, JJ., Bramwell and Channell, BB. (Pollock, C. B., and Pigott, B. dissenting), being of opinion that the plaintiff was entitled to maintain an action (5 New Reports, 249).

(*a*) With regard to the removal of nuisances in the Metropolis, stringent powers were provided under the 57 Geo. 3, c. xxix. (local) ss. 66 *et seq.*, but this Act is practically superseded by the Metropolis Management Act, under which bye-laws for these purposes may be made, and which repeals all acts so far as they are inconsistent with it. By s. 68 of the Act above referred to, the keeping of swine within forty yards of any street within the Bills of Mortality was forbidden, and any swine at large in the streets might be seized and sold. This provision with regard to the keeping of swine is not, however, extended, by the 25 & 26 Vict. c. 102, s. 73, beyond the old Bills of Mortality. Cockburn, C. J., "The keeping of pigs near a street is still prohibited within the Bills of Mortality, but between that area and the limits of the Metropolis Management Acts they may be kept, unless they cause annoyance" (*Chelsea Vestry* v. *King*, 5 New Reports, 85).

Under the City Sewers Act (see note, p. 37) the Commissioners, on certificate of the Officer of Health or two medical practitioners, or on complaint of the persons annoyed, may summon the owner, lessee or occupier of any premises in a filthy or unwholesome condition, and cause the same to be purified at his expense (ss. 77 to 79, and 14 & 15 Vict. c. xci. s. 5). Power to whitewash and purify houses (s. 81); appointment and regulation of scavengers (ss. 82 to 86, and 14 & 15 Vict. c. xci. ss. 6 to 8); penalty for allowing stagnant or filthy water in cellars, &c. (s. 87), also for causing offensive smells, removing night-soil during the day, &c. (ss. 113 to 114).

## OFFENSIVE TRADES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In Districts where the Public Health and Local Government Acts have been applied, the Local Board of Health may provide Slaughter Houses (*a*), and shall make Bye-Laws with respect to the management and charges for the use of the premises so provided (*b*), saving established rights (11 & 12 Vict. c. 63, s. 62; 21 & 22 Vict. c. 98, s. 50). The powers of the Towns Improvement Clauses Act with respect to Slaughter Houses are incorporated (ib. s. 44);—under which Act the Board may license Slaughter Houses and Knackers' Yards (10 & 11 Vict. c. 34, s. 125). No place not used as a Slaughter House, &c. prior to the 2nd of August, 1858, shall be so used without such license under penalty not exceeding 5*l.*, and like penalty for every day during continuance of offence (s. 126). Slaughter Houses to be registered under like penalty for neglect, and 10*s.*

(*a*) The 26 Geo. 3, c. 71, enacts that no person shall keep a slaughter-house for horses or cattle not used for butchers' meat without a license from the Quarter Sessions (s. 1), and over the door of any such slaughter-house the name of such person and the fact of his having obtained such license shall be affixed (s. 2) under penalty not exceeding 5*l.*, and 5*l.* a day during continuance of neglect (12 & 13 Vict. c. 92, s. 7), recoverable as therein set forth; offender may be imprisoned in default (ss. 14 to 18). Notice must be given before slaughtering any such animal to the Inspector (26 Geo. 3, c. 71 s. 3) who shall be appointed by the Vestry (s. 5). Persons slaughtering any such animal without license and giving such notice, &c., is guilty of felony (s. 8).

No license to carry on an offensive trade will enable such business to be carried on after it becomes a public nuisance to the neighbourhood—but if such be already established in a place remote from habitations and public roads, and persons afterwards build houses within reach of its noxious effects, or if a public road be made so near to it that the carrying on of the trade becomes a nuisance to the persons using the road; in those cases the trade may be continued because it was legal prior to the building of the houses, or the making of the road (*R.* v. *Cross*, 2 C. & P. 483).

(*b*) See suggested forms for Bye-Laws, p. 617.

a day during default (s. 127). The Justices may in addition to any penalty suspend the license for two months in the case of any person offending against any Bye-Laws, &c., and on any subsequent offence may revoke such license (s. 129). Penalty for Slaughtering Cattle, &c. during such suspension or revocation 5*l.*, and 5*l.* a-day (s. 130). The Officer of Health, Inspector of Nuisances, &c. may inspect any Slaughter House, Butcher's Shop, &c. (s. 131). [See "Diseased Meat."] The business of blood, bone, soap, or tripe-boiler, fell-monger, tallow-melter, slaughterer of cattle, horses, &c., or other offensive trade, is not to be established in any such District without the Board's consent, under penalty of 50*l.*, and 40*s.* a day during continuance of offence; and the Board may make Bye-Laws with respect to such newly-established trades (*a*) (11 & 12 Vict. c. 63, s. 64). The Act not to render lawful anything that would otherwise be deemed a nuisance (s. 65).

### NUISANCES REMOVAL ACTS.

The Local Authority under these Acts [see "Constitution of Local Authorities"] shall lay a complaint in case any candle, melting, soap, or slaughter house, or place for boiling offal, blood, bones, or any other trade causing effluvia, within any city, town, or populous district, be certified to be a nuisance, or injurious to health, by any Medical Officer, or two Medical Practitioners [see "Officer of Health"]. Any person offending by not using the best means for counteracting such effluvia is, on summary conviction before two Justices, to forfeit not more than 5*l.*, nor less than 40*s.* for the first offence; 10*l.* for the second, and double the last penalty for every subsequent

(*a*) Brickmaking is not an offensive trade within s. 64 of the Public Health Act. Erle, C.J.: "The statute has prohibited certain businesses connected with animal matter, and brickmaking is not a business analogous to those mentioned previous, 'or any other noxious or offensive business, trade, or manufacture.' It may be carried on so as to be no annoyance, and is a proper use of land having clay, and therefore it is not within the statute." (*Wanstead L.B.* v. *Hill*, 1 New Reports, 282.)

offence, not exceeding 200*l.*, subject to appeal (18 & 19 Vict. c. 121, s. 27): Provided that the party complained against may give security to abide the issue of proceedings in a superior court (*a*) (s. 28).

(*a*) In the case of *Hole* v. *Barlow* (4 C. B. N. S. 334; 27 L. J. C. P. 207; 4 Jur. N. S. 1019) it was held, that although at Common Law the existence of a nuisance, *e.g.*, brickburning, may render the enjoyment of life and property uncomfortable, yet if the trade under the circumstances be carried on reasonably, in a proper and convenient place, no action will lie; and whether it be a convenient place, &c., is a question for a jury.

This decision, however, was over-ruled in *Bamford* v. *Turnley* (Exch. Ch. 31 L. J. Q. B. 286), where it was held by Erle, C.J., Williams, J., Bramwell, B., Keating, J., and Wilde, J.—Pollock, C.B., dissenting—that the fitness of the locality will not prevent an offensive trade from becoming actionable, but when the annoyance is sufficient to amount to a nuisance, considering all the circumstances, including the nature and extent of the plaintiff's enjoyment before the acts complained of, an action may be maintained whatever the locality may be; so that brickburning on a man's own land may cause such an annoyance to a neighbour as to be a cause of action, to which convenience and reasonable use will be no answer. It was observed by Bramwell, J.: . . . "Those acts necessary for the common and ordinary use and occupation of land and houses, may be done, if conveniently done, without subjecting those who do them to an action. This would not comprehend the present case, where what has been done was not the using of land in a common and ordinary way, but in an exceptional manner; not unnatural nor unusual, but not *the* common and ordinary use of land. It had occurred to me that any not unnatural use of the land, if of a temporary character, might be justified; but I cannot see why its being of a temporary nature should warrant it. What is temporary? One, five, or twenty years? If twenty, it would be difficult to say that a brick kiln in the direction of the prevalent wind, for twenty years, would not be as objectionable as a permanent one in the opposite direction. If temporary, in order to build a house on the land, why not temporary to exhaust the brick earth? I cannot think, then, that the nuisance being temporary makes a difference. . . . If we look to analogous cases, I can find nothing to countenance the defendant's contention. A riparian owner cannot take water for the public benefit; he cannot foul it for the public benefit, if to the prejudice of another owner. A common cannot be enclosed on such principle. A window, the fee simple value of which is 5*s.*, cannot be stopped up by a building worth 1,000,000*l.* of the greatest public benefit. The windows of such a house might be blocked from light and air, however contrary that might be to public benefit . . . I have a difficulty in putting a meaning on the words 'convenient, reasonable, and proper,' as there used [in *Hole* v. *Barlow*]. As regards the sufferer? No. As regards the defendant? That cannot be, as that might place the nuisance close to the plaintiff, to the entire loss of the power of dwelling in his house. As between the two? Then the nuisance may lawfully be greater, as the

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis no slaughter-house or cow-house can be used without a license, under penalty not exceeding 5*l.*, and no license applied for without fourteen days' notice to the Vestry or District Board of Works (25 & 26 Vict. c. 102, s. 93). Before applying for license for a slaughter-house for horses, &c., a month's notice must be given (*a*) (s. 94).

### SMOKE NUISANCE ACTS.

Any person who shall carry on any business, in the Metropolis, which occasions any noxious or offensive effluvia, or otherwise annoy the neighbourhood or inhabitants, without using the best means for preventing such annoyance, is liable to penalties (16 & 17 Vict. c. 128, s. 1) on information by authority of the Secretary of State (s. 5), who shall not proceed against such nuisances unless the Local Authority fail to proceed actively in suppressing the same under the Nui-

defendant's premises are smaller, and so his kiln *must* be nearer. As regards the public good? That I have already dealt with. In the result *Hole* v. *Barlow* should be over-ruled."

Where brickburning destroyed the comfort of a mansion and injured the trees, the Court granted an injunction, it appearing that such burning might have been carried on by the defendant on land in his occupation without that degree of injury which would entitle the plaintiff to complain (*Beardmore* v. *Tredwell*, 31 L. J. Ch. 892). The onus of proving that a lawful trade, causing a nuisance, is carried on in a reasonable and proper manner is on the defendant setting up the plea (*Stockport Waterworks Co.* v. *Potter*, 31 L. J. Ex. 9). Offensive trades were, by a Local Act, prohibited within a certain distance of a Workhouse, but if carried on prior to the statute compensation was to be made :—Held that, notwithstanding, where a trade was so conducted as to be a nuisance at Common Law, the defendant was not entitled to any compensation, as the parish might at any time have caused it to be removed (*R.* v. *Watts*, 2 C. & P. 486). See also *Walter* v. *Selfe*, 2 L. J. Ch. 433, 4 De Gex & Sm. 315—Brickburning; *Aldred's case*, 7 Rep. 57 *b*.—Pigstye; *King* v. *Pierce*, 2 Shower, 327—Soap-boiling.

(*a*) By the City Sewers Act, ss. 92 to 97 (see note, p. 37), and 14 & 15 Vict. c. xci. ss. 18 to 26, Slaughter-houses within the City of London are to be registered, and the Commissioners may make regulations in relation to the management of them; also with respect to offensive trades (ss. 108-9). Penalty for exposing offensive hides (14 & 15 Vict. c. xci. s. 49).

sances Acts (19 & 20 Vict. c. 107. s. 3). [See "Prevention of Smoke."]

### ALKALI WORKS ACT.

By the Alkali Act, 1863, it is provided that every work for the manufacture of alkali, sulphate of soda, or potash, is required to be carried on in such manner as to secure the condensation of not less than 95 per cent. of the muriatic acid evolved therein. Penalty for contravention, not exceeding 50*l.* for the first offence, or 100*l.* for every subsequent offence (26 & 27 Vict. c. 124, s. 4). The owner of such work to be liable, or his agent or servant, in case of their committing such offence without his knowledge or consent (s. 5). Such work to be registered in manner prescribed, under penalty of 5*l.* per day for neglect (s. 6). Inspectors are to be appointed for the purposes of the Act (ss. 7, 8), who may examine any such works, without notice, at all reasonable times by day or night, and who must be furnished on demand with a plan of the premises so used, and who may make experiments for ascertaining the efficiency of the apparatus or the quantity of gas condensed, for which all necessary facilities must be rendered by such owner or agent (s. 9). Penalty not exceeding 10*l.* for obstruction or neglect (s. 11). Owners may make rules, with the sanction of the Board of Trade, for the guidance of their workmen, and annex penalties (not exceeding 2*l.* for any one offence) to any violation of such rules (s. 13). The proceedings for penalties regulated as therein set forth (ss. 14 to 19).

## PREVENTION OF SMOKE.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

To prevent the injury and annoyance arising from dense volumes of smoke, it is provided that in any District to which the Public Health and Local Government Acts are

applied, the provisions of the Towns Improvement Clauses Act, 1847, with respect to the prevention of smoke, are to be in force (21 & 22 Vict. c. 98, s. 45); under which Act, every fireplace to be used within the district in the working of engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, gaswork, or in any manufactory (although a steam-engine be not employed), is to be so constructed as to consume the smoke arising therefrom; or, if existing prior to the application of the Acts, to be made to consume such smoke within two years of such application. Persons using such so as not to consume the smoke, after a month's notice from the Local Board, are liable to a penalty of 40*s.* a day during any part of which the smoke be not consumed (10 & 11 Vict. c. 34, s. 108). Such provisions do not extend to compel the consumption of all smoke in the manufacture of coke, iron, lime, bricks, earthenware, quarries, tiles, pipes, glass, &c., or the raising of minerals in any District where such provisions are not previously in force, and in which the Board shall resolve that such processes, &c. shall be exempted for not exceeding ten years (which may be renewed); whereupon any Justice may remit the penalty in the case of any person who has as far as possible prevented any nuisance from smoke in the process and during the time so exempted, unless the Secretary of State shall order that such exemption shall no longer continue (21 & 22 Vict. c. 98, s. 45).

### SMOKE NUISANCE ABATEMENT ACTS (*a*).

In the Metropolis any person using any furnace employed in the working of engines by steam, or in any mill, factory, printinghouse, dyehouse, ironfoundry, glasshouse, distillery, brewhouse, sugar-refinery, bakehouse, gasworks, waterworks, or other buildings used for the purpose of trade or manu-

(*a*) By the 8 & 9 Vict. c. 20, s. 14, Engines used on Railways must be constructed so as to consume their own smoke, under a penalty of 5*l.* for every day during which such Engine be used not so constructed. See *Manchester & Sheffield Railway Co.* v. *Wood*, 6 Jur. N. S. 70.

facture within the Metropolis, which shall not be constructed so as to consume the smoke arising therefrom, or who shall carry on any business which shall occasion any noxious or offensive effluvia, or otherwise annoy the neighbourhood or inhabitants, without using the best means for preventing such smoke or other annoyance, on conviction, is to forfeit not more than 5*l.* nor less than 40*s.*, and for the second offence, 10*l.*, and for each subsequent offence double the last preceding penalty (16 & 17 Vict. c. 128, s. 1; and 19 & 20 Vict. c. 107, s. 1). Extended to furnaces employed in baths and wash-houses (*a*) (19 & 20 Vict. c. 107, s. 2). The like penalties for so using any such furnace by the owner or master of any steam-vessel on the Thames above London Bridge (16 & 17 Vict. c. 128, s. 2). Extended to between London Bridge and any place on the river westward of the Nore Light (*b*) (19 & 20 Vict. c. 107, s. 1). The Justice may remit the penalties if satisfied the defendant has consumed, as far as possible, the smoke arising from such furnace (16 & 17 Vict. c. 128, s. 3). On refusal to allow any premises to be inspected, any constable may be authorised by warrant to enter and examine the premises or vessel, &c.: penalty for obstruction not exceeding 20*l.* (s. 4). No information under the Act to be laid except by the authority or direction of the Secretary of State (s. 5), who is not to proceed under the Act against other nuisances besides smoke unless it appear to him that the Local Authorities fail to proceed actively in suppressing such nuisances under the Acts 18 & 19 Vict. cc. 120, 121; 19 & 20 Vict. c. 107, s. 3.

(*a*) By the Metropolis Water Act, 15 & 16 Vict. c. 84, s. 14, every Steam Engine of any Company therein mentioned shall be constructed to consume its own smoke [see "Water Supply"], and by the City Sewers Amendment Act, s. 48 (see note, p. 37), all furnaces within the City of London are to be similarly constructed.

(*b*) A Steam-tug plying between London Bridge and the Nore must be constructed so as to consume its own smoke (*Walker* v. *Evans*, 29 L. J. M. C. 22).

## PUBLIC CONVENIENCES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

For the provision of Public Conveniences, it is enacted that within any district to which the Public Health and Local Government Acts have been applied, the Local Board of Health may provide and maintain, in convenient situations, water-closets, privies, and other conveniences for public accommodation, out of the General District Rates (11 & 12 Vict. c. 63, s. 57).

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis the Vestries and District Boards may provide urinals, waterclosets, &c., where they deem such accommodation required (*a*) out of the sewer rates (18 & 19 Vict. c. 120, s. 88).

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## PUBLIC PLEASURE-GROUNDS.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In any District to which the Public Health and Local Government Acts are applied, the Local Board of Health may provide, maintain, lay out, and improve premises for public walks or pleasure-grounds, and support or contribute towards

(*a*) The Court will not restrain a Metropolitan Vestry from the *bond fide* exercise of powers vested in them by statute. The Lords Justices: "Assuming that the Vestry were empowered by Act of Parliament to place at their discretion urinals for public use, they could not be considered to be erecting a nuisance when exercising their Parliamentary powers *bond fide*" (*Biddulph* v. *St. George's Vestry*, 2 New Reports, 212).

By the City Sewers Act, s. 104 (see note, p. 37) the Commissioners are empowered to provide Public Conveniences within the City of London.

any such premises provided by other persons (11 & 12 Vict. c. 63, s. 74).

### RECREATION GROUNDS ACTS.

The Act to facilitate the grant of lands for Recreation Grounds, provides that any such lands may be conveyed to Trustees, to be held as open public grounds for the resort and recreation of adults, and as play-grounds for children and youth, &c., by any donors (22 Vict. c. 27, s. 1), in manner prescribed (s. 2). In the case of grants by municipal corporations, with the approval of the Treasury (s. 3); and parish lands may be so granted by the Churchwardens, &c., with the approval of the Poor Law Board (s. 4). Trustees to be appointed as prescribed, or by the Charity Commissioners (s. 5). Bye-Laws may be made, to be approved by the said Commissioners (s. 6). Personal property not exceeding 1000*l.* may be bequeathed for the provision or maintenance of such grounds (s. 7).

The Act for the Protection of Public Gardens, &c., provides that where any garden, &c., has been set apart in any public square, &c., or public place, for the inhabitants, and the Trustees, &c., appointed for the care thereof have neglected to keep it in proper order, or where such garden, &c., has not been vested in any Trustees, &c., for the care thereof, and has been neglected, the Metropolitan Board of Works within their jurisdiction, and the Corporate Authorities of any City or Borough, are to take charge of the same after notice, &c., or on request, &c., shall vest such garden in a committee of inhabitants, and the Vestry or Board of the Parish or District must defray the expenses of maintenance, &c., by an addition to the rates; or, in the absence of such request, shall vest the same in such Vestry or Board, to be maintained in the manner most advantageous to the public (26 Vict. c. 13, s. 1). Such Corporate Authorities, &c., may, on request and after inquiry, require that any garden, &c., shall be maintained as such, and protect the same from encroachment (s. 2). Expenses to be defrayed under provisions of the Metropolis Local Management Act or Municipal Corporations Act

(5 & 6 Will. 4, c. 76, s. 3). Any Committee for the management of such gardens may make Bye-Laws, to be allowed by some Judge of a superior court, or by the quarter sessions: penalty for offending against such Bye-Laws not exceeding 5*l.* (s. 4). Trespassers may be apprehended by any police-constable, and, on conviction before any Magistrate for the District, are liable to penalty not exceeding 40*s.*, or imprisonment not exceeding fourteen days (s. 5). As to recovery of penalties (s. 6); saving rights of the Crown (s. 7); Act not to extend to Scotland or Ireland (s. 8).

## PUBLIC IMPROVEMENTS ACT.

The ratepayers of any parish with a population exceeding 500, may purchase, lease, or accept land for forming any public walk, exercise or play-ground (*a*); and levy rates for maintaining the same or removing obstructions, and for improving any open walk or footpath, or placing seats or shelters from rain, &c. (23 & 24 Vict. c. 30, s. 1). The Act to be adopted and carried into operation according to the provisions of the Baths and Wash-houses Act (9 & 10 Vict. c. 74, ss. 2, 3). A separate parish improvement rate may be made if agreed to by two-thirds in value of the ratepayers in meeting assembled (s. 4): Provided that, prior to such rate, half the estimated cost of such improvement has been raised by subscription or donation; and that such rate does not exceed sixpence in the pound (ss. 6, 7).

(*a*) By the Commons Enclosure Act, 8 & 9 Vict. c. 118, power is given to the Commissioners to preserve and allot Village Greens for the purposes of Exercise and Recreation (s. 15), or to allot other lands for such purposes in proportion to the number of inhabitants (s. 30), or to exchange such places as may be too distant from poor dwellings for others more conveniently situated (s. 149). Like powers are given by the Commons Inclosure Amendment Act, 9 & 10 Vict. c. 70, s. 4. And such places may be distinguished by metes and bounds only, and not fenced (15 & 16 Vict. c. 79, s. 14). Any person causing damage to any fence, or driving cattle, or laying rubbish, &c., on such Green, shall forfeit not exceeding 40*s.* beyond the damage, &c. (20 & 21 Vict. c. 31, s. 12).

### METROPOLIS MANAGEMENT ACTS.

The Metropolitan Board of Works may take by agreement or gift any lands for public improvements, and make application to Parliament, if necessary, for further powers for the purpose of providing parks, places of recreation, &c., for the public benefit (18 & 19 Vict. c. 120, s. 144; 19 & 20 Vict. c. 112, s. 10; 21 & 22 Vict. c. 104, s. 25). Any District Board or Vestry may in like manner take any land, to be maintained as an open space or for pleasure-grounds; but not charge the rates with any expenditure in respect thereof, except for enclosing, planting, and improving the same (19 & 20 Vict. c. 112, s. 11).

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## MANAGEMENT OF STREETS AND ROADS.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

With regard to the proper management of Streets and Roads within any District to which the Public Health and Local Government Acts are applied, it is enacted that all streets being highways, pavements, &c., shall vest in the Local Board of Health, who shall cause all such streets to be leveled, paved, channeled, repaired, &c., and may raise, lower, or alter the soil, and place and repair fences and posts for the safety of foot-passengers. Penalty for displacing or injuring pavement, materials, fences, posts, &c., not exceeding 5*l*., and further sum not exceeding 5*s*. for every square foot so displaced or injured (11 & 12 Vict. c. 63, s. 68). The powers of the Towns Improvement Clauses Act with respect to the precautions during repair, &c., of streets, &c., are incorporated (21 & 22 Vict. c. 98, s. 44); under which Act the Board must guard against accidents from excavations and holes by proper fences and lights at night (10 & 11 Vict. c. 34, s. 79), and require hoards, &c., to be erected for the purpose by persons executing any such works, under penalty for neglect (s. 80). Penalty for

neglecting to light or fence building materials or rubbish, excavations, &c. (s. 81), or allowing such deposits, &c., to remain an unreasonable time (s. 82). In case of neglect, such protection to be provided by the Board at the owner's expense (s. 83). The Board may give notice to the owners or occupiers of premises abutting upon any street not being a highway as may require to be sewered, leveled, paved, &c., to execute such works within a specified time, and in default may execute the same at the expense of the owners, as settled by the Surveyor, or in case of dispute by arbitration in manner provided, recoverable in a summary manner, or as Private Improvement Expenses (*a*) 11 & 12 Vict. c. 63 (s. 69). Any such street, if properly sewered, leveled, paved, &c., may be declared by the Board (by notice put up in any part thereof) to be a highway, and be repaired out of the District rates, unless within one month after such notice the proprietor objects thereto (s. 70). Such objection, to be of any force, must be made either by the sole proprietor or a majority of proprietors, joint

(*a*) Where non-compliance with the provisions of a Local Act had prevented a certain street from becoming a highway prior to the application of the Public Health Act to the District: Held, that under s. 69 of that Act, notwithstanding that such owners were exempt under the Local Act from rates for the repairs of the public highways, the owners of premises in such street were liable to be rated for the repair of the same (*Wallington* v. *White*, 10 C. B. N. S. 128, 30 L. J. M. C. 209; see *Willes* v. *Wallington*, 1 New Reports, 129).

Where A. received the rent from the occupier of premises apparently as absolute owner, though in no way entitled to receive the same, and B., the actual owner, did not attempt to prevent such receipt of the rents, nor in any way assert his right; it was held that the Local Board, having no knowledge of these facts, had rightly served notice on A., under s. 69 of the Public Health Act, the person *de facto* receiving the rent being the owner for the purposes of the Act. Pollock, C.B.: "Notice has been given to the person actually receiving rent, and who was, in my opinion, an 'owner' according to the definition of the word given in the Interpretation Clause of this Act." Channell, B.: "A person receiving rent for land may, in the absence of anything tending to show that he receives it for another, be assumed to receive it for his own account. The notice was sufficient to originate proceedings, and, if they were properly continued, everything was done in compliance with the Act" (*Peek* v. *Waterloo L. B.*, 3 New Reports, 131).

"Leveled" refers to the particular street only; there is no power to make the surface uniform with neighbouring streets (*Caley* v. *Hull L. B.*, 5 New Reports, 79).

proprietors to be reckoned one (21 & 22 Vict. c. 98, s. 42). The powers for compelling the sewerage, &c., of such streets, and declaring them to be highways, shall extend to lighting, metaling, or making good such streets, and to any part thereof; or to any street or road partly theretofore a public footpath. No place of religious worship exempt from poor rates shall be charged with any such expenses, and the Board may undertake any works from the expenses of which such places are hereby exempted (ib. s. 38). Prior to giving notice to the owners, &c., the Board shall cause plans and sections of the intended works to be made by their Surveyor on the scale prescribed, which plans are to be open to inspection at their office, reference thereto in the notice to be sufficient (24 & 25 Vict. c. 61, s. 16). Form of notice prescribed (s. 17). Where the District adjoins a district constituted under the Highway Acts, it shall be deemed to be within such Highway district for the purpose of any meeting of the Highway Board (26 Vict. c. 17, s. 6); but when the Local Government Act is adopted in any parish included in a Highway district, it will thenceforth cease to form part of such district, subject to existing liabilities (25 & 26 Vict. c. 61, s. 41). The Local Board may make Bye-Laws with respect to the level, width, and construction of new streets (*a*) (21 & 22 Vict. c. 98, s. 34); also for licensing horses, asses, &c., standing in the streets, and fix the rates for hire of the same, as well as for pleasure-boats, &c. (24 & 25 Vict. c. 61, s. 25). They may agree with any persons for making public roads through the lands, and at the expense of such persons; such roads to be highways, and repaired at the public expense, and (with the consent of two-thirds of the members) may agree to pay any portion of the expenses of making such roads (21

(*a*) See suggested forms for Bye-Laws, p. 612. Where notice had been given to a Local Board, under the Public Health Act, of an intention to lay out new streets, but such had not been proceeded with until after the Local Government Act took effect in the district, and after the Board had framed a Bye-law under the latter Act, requiring notice before proceeding to lay out new streets, it was held, that by virtue of s. 9 a fresh notice was not necessary in the case (*Felkin* v. *Berridge*, 3 New Reports, 82).

& 22 Vict. c. 98, s. 39). They may also agree with the proprietors of canals, railways or tramroads, &c., at their expense, for the construction or alteration of bridges, viaducts, &c., and at the like expense to purchase lands required for the purpose, and that such bridges, &c., shall be parts of public roads, &c., repairable at the public expense, and (with the consent of two-thirds of the members) may agree to pay any part of the expenses of building such bridges, &c.; and with consent of such proprietors may agree to adopt any existing bridges over or under such canals, &c., as parts of roads, &c., repairable at the public expense (s. 40). The Board may agree with turnpike trustees, &c., to repair, cleanse, water, &c., any street or road within their District, and remove toll-gates within two miles of the centre of such District, and erect others as may be agreed upon, with the consent of two-thirds of any mortgagees of the tolls; any annual charge to be secured on the local rates (s. 41). They may, by notice, require the person to whom belong any water or gas pipes, mains, plugs, &c., laid under any street, to raise, sink, or alter the same (but not so as to permanently injure such pipes, works, &c.,) within a specified time, the expense to be charged on the District rates; and if such notice be not complied with, the Board may make the alteration required, provided that where, under any local Act, any such expenses are to be borne by the owner, his liability shall continue (11 & 12 Vict. c. 63, s. 71). No Local Board can disturb any roads under the Commissioners of the Metropolis turnpike roads, except upon conditions prescribed (21 & 22 Vict. c. 98, s. 43.) The Board shall execute the office of Surveyor of Highways, and the inhabitants are not to be liable in respect of property within the District to any highway rate beyond the limits of the District (*a*) (11 & 12 Vict. c. 63, s. 117).

The repair of the highways within the District, where not

(*a*) A highway under these Acts is declared to be any highway, repairable by the inhabitants at large by 15 & 16 Vict. c. 42, s. 13; and at Common Law the parish is bound to repair all public highways (*R.* v. *Leake*, 5 B. & Ad. 482). The expenses of repairing the highways within the district of a Local Board, comprising several parishes, are, under the Public Health Act,

otherwise provided for by any local Act, is to be defrayed out of the General District Rates, or partly or wholly by a highway rate, as the case may be, as therein prescribed, to be audited as other accounts,—no allowance or verification of any Justices or Vestry being necessary (*a*); any surplus to be carried to a separate highway rate account (21 & 22 Vict. c. 98, s. 37). Provisions for such rating of parts of places excluded from the District (24 & 25 Vict. c. 61, s. 9). All the powers given to the Vestry under the 5 & 6 Will. 4, c. 50, are to be exercised by the Local

to be defrayed by a district rate, and not by a highway rate (*Elmer* v. *Norwich L. B.*, 3 E. & B. 517; 23 L. J. Q. B. 203; *Moseley* v. *Ely L. B.*, 6 E. & B. 518; 26 L. J. M. C. 23). Such highway rates, however, theretofore made, are not to be deemed invalid (17 & 18 Vict. c. 69). But where the district is conterminous with a single parish, a highway rate under the Highway Act may be made by the Board (*Hansom* v. *Epsom L. B.*, 25 L. J. M. C. 27); and where a district formed part of a parish in which there was a turnpike road not producing sufficient tolls to maintain it in repair, it was held, that the Board might, in their capacity of Surveyors of Highways, contribute by a highway rate under 4 & 5 Vict. c. 59, towards the maintenance of that part of the road within their district; a highway rate made for that part of the parish which was beyond the district not being chargeable with such repairs (*R.* v. *Worthing*, 3 E. & B. 989; 23 L. J. M. C. 187. See also *Barber* v. *Jessop*, 1 H. & N. 578; and *Taff-Vale Railway* v. *Cardiff L. B.*, 8 E. & B. 535). As to highways repairable by the parish, see *Roberts* v. *Hunt*, 15 Q. B. 17; also *Hull L. B.* v. *Jones*, 1 H. & N. 489; 2 Jur. N. S. 1193; 26 L. J. Exch. 33, 289, where it was decided that the Board could not rate the owners of adjoining land for paving new streets, but only streets, not repaired by the parish, which existed before the Act was applied to the district. See, however, 21 & 22 Vict. c. 98, s. 38. A yard entered from a street through a covered gateway is liable to a paving rate (*Baddeley* v. *Gingell*, 1 Exch. 319). Where a Local Act incorporated ss. 48-9 of the Towns Improvement Clauses Act, constituting the Commissioners Surveyors of Highways, and making them liable for non-repair in the same manner as the parish theretofore,—and enabled them to levy rates to a fixed amount; and an injury was occasioned by the omission to repair one of the highways within the limits of the Act: held, that the Commissioners were liable, and it was not necessary to aver that there were funds applicable. Crompton, J.: "The defendants are guilty of a misdemeanour for not having done the very thing with the omission of which they are charged. That seems to me to take away the liability of the parish, and can it be said that there is not a liability to the same extent to be cast on the new body?" (*Hartnall* v. *Ryde*, Commissioners, 2 New Reports, 424.)

(*a*) The clerk of the Board is to make returns to the Secretary of State of highway expenditure required by the 13 Vict. c. 35.

Board within the District (*a*) (s. 10), and the 69th section of the said Act is to apply to all encroachments on highways (ib. s. 26). With respect to obstructions, &c., in streets, places of resort, hackney carriages and bathing, the powers of the Police Clauses Act are incorporated (21 & 22 Vict. c. 98, s. 44); under which Act the Board may make orders for the route to be followed by carriages, &c., during public processions, and preventing obstructions within the district (10 & 11 Vict. c. 89, s. 21), and like orders in the neighbourhood of Churches, &c., during divine service (s. 22). Any Constable may impound stray Cattle within the district as the Board may direct (s. 24). Poundage and expenses recoverable by sale in manner prescribed (s. 25). Penalty for unlawful release of Cattle from Pound, Imprisonment not exceeding three months (s. 26). Penalties for Street offences by Horses, Dogs, Cattle, Waggons, Carts, improper driving, obstructions, Prostitution, Indecency, Games, Wanton Mischief—Stones, Materials, Rubbish, &c., Carpet beating, &c., improper window cleaning, unfenced Vaults, &c., surface filth, Pig-

(*a*) Under the Highway Act, the Vestry for the nomination of overseers shall appoint a Surveyor of Highways (5 & 6 Wm. 4. c. 50, s. 6). A skilled Surveyor may be appointed at a salary to be fixed at such meeting (s. 9). The Vestry may direct application to the Justices to unite their parish with adjoining parishes to form a Highway District (s. 13). In parishes exceeding five thousand inhabitants, two-thirds of the Vestry may elect not more than twenty nor less than five persons, to be a Board to serve the office of Surveyors of Highways (s. 18). The Vestry may, in certain cases, determine whether a highway be of sufficient utility to the inhabitants to be kept in repair by the parish (s. 23). They may also consent to the appointment by the Surveyor of Collectors, and determine the allowance to be made to them (s. 36). And, in certain cases, consent to the composition of sums due from the Collector (s. 38). The Vestry on receipt of the Surveyor's accounts may order an abstract thereof to be published (s. 44). They must consent to contracts made by the Surveyor, who shall not be a party thereto (unless by license from the Justices) under a penalty of 10*l.* (s. 46). The Vestry may consent to an application to the Justices by any person liable to repair any highway, to make the same a parish highway (s. 62). The Surveyor shall not make any footway without the consent of the Vestry (s. 80). The Vestry may direct the Surveyor to apply to the Justices to authorise the stopping up or diverting of any highway (s. 84). The Vestry may authorise the Surveyor to defend any indictment or appeal against the parish, or to appeal against any order (s. 111).

stye or Swine, &c. (s. 28). Also for drunkenness with riotous or indecent behaviour (s. 29). Penalty on Public-House Keepers for harbouring Constables while on duty (s. 34), or disorderly persons (s. 35). Penalty for keeping places for Cockfighting, &c. (s. 36). The Board may license Hackney Carriages within their district in manner prescribed; regulations as to granting and revocation of Licenses, Conduct of Drivers; Fares; number of persons to be carried. Penalties for misbehaviour, damage, &c., and power to make Bye-Laws (*a*) (ss. 37 to 68). The Board may make Bye-Laws with respect to any Public Bathing-place within their district for regulating the position and use of Machines, Boats, &c. (s. 69).

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis the Vestries or District Boards may fill up ditches by the side of any roads or footways, and throw the surface into such roads, &c., to be under the control of the Surveyors of Highways, &c. (18 & 19 Vict. c. 120, s. 87). All powers as to paving, lighting, watering, &c., are vested in the Vestries or District Boards (*b*) (ss. 90 and 92), who are to execute the office of Surveyor of Highways, &c. (s. 96; and 25 & 26 Vict. c. 102, s. 71); and they may repair, pave, or alter any streets, &c., subject to the approval of the Engineer of any company whose pipes may be disturbed (18 & 19 Vict. c. 120, s. 98). Paving of freehold courts to be done by the owners (s. 99), under penalty of 5*l.* for neglect (s. 100); or the Board may do the necessary work at the owners' expense (25 & 26 Vict. c. 102, s. 81). The Board may effectually pave and repair new streets at the expense of the owners of houses and land (18 & 19

(*a*) See suggested forms for Bye-laws, p. 622. A carriage license from the Inland Revenue will not supersede the necessity of a license from the Local Board (*Buckle* v. *Wrightson*, 5 New Reports, 82).

(*b*) The City Sewers Act (see note, p. 37) empowers the Commissioners to regulate the lighting of streets within the City of London (ss. 115 to 118, and 14 & 15 Vict. c. xci. s. 37); the paving and repairing of streets, and laying down pipes, &c., therein (ss. 119 to 144, and 14 & 15 Vict. c. xci. ss. 38—9); also the watering and cleansing of streets (ss. 145 to 152, and 14 & 15 Vict. c. xci. s. 40).

Vict. c. 120, s. 105; and 25 & 26 Vict. c. 102, s. 77). And may undertake the repair of any street, not being a highway (18 & 19 Vict. c. 120, s. 106), unless, one month after notice, two-thirds of the owners and occupiers object (25 & 26 Vict. c. 102, s. 80). They may fence ways for the safety of passengers (18 & 19 Vict. c. 120, s. 108). Streets not to be broken up by any gas or water companies without notice to the District Board, under penalty not exceeding 5*l.* (s. 109). When necessary, such works to be done under the superintendence of the Board (*a*) (s. 110; and 25 & 26 Vict. c. 102, s. 82). Penalty for failing properly to reinstate any ground so broken up, or to guard the same at night, not exceeding 5*l.*, and 40*s.* a day during continuance of neglect (18 & 19 Vict. c. 120, s. 111). Any pavement injured by any company shall be repaired by them under penalty not exceeding 20*l.* (s. 112). Any company opening the ground by mistake to give notice to the company to whom any injured pipes, &c., belong, under like penalty for neglect (s. 113). The Board may reinstate any such broken-up ground at the expense of the company (s. 114), or may contract for such repairs (s. 115). They may cause the streets to be watered (*b*) (s. 116), and footways to be cleansed (s. 117), and appoint crossing-sweepers (s. 118).

(*a*) Where the owner of premises within the district of a Metropolitan Board of Works having been ordered to abate a nuisance, employed a Contractor who dug a trench in the highway, into which (not being properly filled up) a person afterwards fell and was injured, it was held that the Contractor only was liable, notwithstanding s. 110, 18 & 19 Vict. c. 120. Cockburn, C. J., observing: "There is nothing to take it out of the common doctrine, that if a person, whether in the exercise of his rights as a private individual, or under the powers given him by a statute, employs a Contractor to do a certain work, and the Contractor in the performance of that work is guilty of negligence, the Contractor alone is liable." Crompton, Blackburn, and Mellor, JJ., concurred. (*Gray* v. *Pullen*, 2 New Reports, 18.) This was afterwards reversed in the Ex. Ch.: Erle, C.J., Pollock, C.B., Byles and Keating, JJ., Bramwell, Channell and Pigott, BB., being of opinion that a statutory duty is implied under sec. 77—conferring power to open the drain—to fill in the ground sufficiently; and that the employer cannot, therefore, be relieved from liability by the omission of the contractor (5 New Reports, 249).

(*b*) Under an ancient statute the parish of A was carved out of the parish of B—the boundary being therein described as "abutting on and upon" a certain street: Held, that for the purpose of the Metropolis Management Act,

All lamps are vested in the Board, who are to cause streets to be lighted (s. 130). Any street situate in two Districts may be under the management of one District Board (s. 140). The Metropolitan and District Boards may regulate the names of streets and the numbering of houses (*a*) (25 & 26 Vict. c. 102, s. 87). No building can be erected beyond the general line of street without consent of the Metropolitan Board, and any such may be demolished by order of a Justice (ib. ss. 75, 76). The Metropolitan Board may widen and improve streets, &c. (18 & 19 Vict. c. 120, s. 144), and may break up turnpike roads for any necessary work upon giving notice (25 & 26 Vict. c. 102, s. 33); also railways, &c. (ss. 34, 35); and during any works may stop up any road (ss. 21, 84). The Board may construct roads and bridges in connection with their works (ib. ss. 22 to 25). The District Boards may also make improvements, &c. (ss. 72, 73), and may flag footways (s. 78). The Metropolitan Board may regulate the height of buildings in certain cases (s. 85), and may place streets situate in different districts under one management (s. 86). Penalty for defacing notices, lamp-posts, or buildings (s. 90). New streets to be at least forty feet wide, &c. (s. 98), except under special circumstances (s. 99). Penalties for breaking lamps, &c. (18 & 19 Vict. c. 120, ss. 206, 207).

## REGULATION OF BUILDINGS.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

To promote the uniform width of buildings and the widening of streets within any District to which the Public Health and Local Government Acts are applied, it is enacted that the Local Board of Health may purchase by agreement any premises

s. 116, such boundary ran along the middle line of the street in question (*R.* v. *Strand Board of Works*, 3 New Reports, 67).

(*a*) The powers of the City Commissioners of Sewers as to naming and numbering streets, are superseded by the Metropolis Management Acts (*Daw* v. *Metropolitan Board*, 31 L. J. C. P. 23).

for widening, opening, or improving any street (11 & 12 Vict. c. 63, s. 73). When any house, &c., has been taken down to be rebuilt, &c., the Board may prescribe the line for the new erection, giving compensation to the owner or other person interested for any loss in consequence of his house, &c., being set back (21 & 22 Vict. c. 98, s. 35), and the Board may, with the sanction of the Secretary of State, purchase any premises for making new streets (s. 36). No person can bring forward any house, &c., forming part of any street, beyond the line of the houses, &c., on either side, without the consent of the Board (24 & 25 Vict. c. 61, s. 28). The Board may make Bye-Laws with respect to the walls of new buildings, for securing stability and the prevention of fires; the space about buildings to secure free circulation of air, the ventilation of buildings, drainage, &c.; and the closing of buildings unfit for habitation (*a*): with provisions as to giving notices, deposit of plans, &c., by persons intending to lay out streets, as to inspection by the Board, and the removal of any work done in contravention of such Bye-Laws; but not to affect buildings erected prior to the constitution of the District (*b*). The re-

(*a*) See suggested forms for Bye-laws, p. 614.

(*b*) A Local Board of Health, under their Bye-laws, prescribed certain rules for the erection of new buildings, subsequent to the constitution of the District; outbuildings having been pulled down and rebuilt, with additions to an old house, without regard to such requirements: Held, that there had been no violation of the Bye-laws, as the facts showed that there was no new building erected within the Local Government Act and Bye-laws, but only an addition to the old building (*Shiel* v. *Sunderland, Mayor*, 6 H. & N. 796; 30 L. J. M. C. 215).

A boundary wall and steps were re-built in accordance with the original plan for the entrance to a chapel, erected prior to the constitution of a District under the Local Government Act, and the Local Board having given notice to remove the wall as projecting beyond the distance sanctioned by their Bye-laws, which had been approved by the Secretary of State, afterwards proceeded to pull down the wall: Held, that as the street in question was not a new street the Board were not justified, and that the Bye-laws made no difference as they could not go beyond the Act itself (*Brown* v. *Holyhead L. B.*, 1 New Reports, 63).

The owner of a manufactory which he was desirous of pulling down and rebuilding, sent plans of his proposed new building, showing its site with regard to the adjacent property, to the Town Council acting as the Local Board

erection of any house, or conversion of any other building into a house, or of one house into more than one, is to be considered as the erection of a new building (21 & 22 Vict. c. 98, s. 34). The powers of the Towns Improvement Clauses Act, with respect to the naming and numbering of streets, improving lines of streets and dangerous buildings, precautions during the building and repair of houses, and clocks, are incorporated (s. 44);—under which Act, the Board may cause all houses, &c.,

of Health, for approval before he pulled down the factory. An approval was returned to him by the Building and Improvement Committee of the Board, which Committee had been appointed under the powers of a Local Act incorporating the Public Health Act, enabling the Council to delegate its authority on any subject to a Committee. A note was appended to the approval, stating that the approval of any plans by such Committee referred only to such parts of such plans and particulars as were required in accordance with the Bye-laws made for the regulation and laying out of new streets and the erection of new buildings, made under s. 34 of the Local Government Act; but the same was not to extend to the doing of any work other than that described by such Bye-laws. On receipt of this approval the building was pulled down, after which the Town Council gave notice, under the 35th section, that any new building must have its frontage set back to a certain line, about 13 feet behind the line shown on the plan so first approved. The Court held, that the Council were not at liberty to give any such notice after the approval of their Committee, and an injunction was granted to restrain them from interfering with the new building according to the plaintiff's plan (*Slee v. Bradford Corporation*, 1 New Reports, 386).

Where a Local Board, in pursuance of a Bye-law under the Local Government Act, s. 34, closed a house they deemed unfit for habitation, which had been built prior to the constitution of the district, it was held that they had no power to do so. Erle, C. J.: "The Bye-law constitutes no defence in this action. The house in question was erected before the constitution of the District, and the Bye-law under which the defendant acted was to enable the closing of buildings unfit for human habitation. But that part of the 34th section respecting buildings unfit for human habitation is followed by a proviso, that no such Bye-law shall affect any building erected before the constitution of the District, *i.e.*, the Local Board have no power to make a Bye-law to close a house built before the constitution of the District. The Legislature might very well be disposed to be extremely scrupulous in taking away legal rights invested in the owners of property. It seems to me that the proviso meant, that in the new parts of the town built since the Act came in force the owners could not complain if they were within the provisions of the Act; but that as to old houses built before the constitution of the District, it would be extremely hard, and a very considerable interference with vested rights. When houses are so altered as to be practically new, they are within the Act" (*Burgess v. Peacock*, 4 New Reports, 365).

to be named and numbered as they think fit (10 & 11 Vict. c. 34, s. 64), and the occupiers must renew such numbers, &c. under penalty for neglect (s. 65). The Board may allow Buildings to be set forward (s. 66), and purchase lands for widening or improving Streets (s. 67). They may require Buildings when rebuilt to be set back, making compensation to the owner (s. 68); enforce the removal of projections erected after the passing of the Local Government Act, [August 2, 1858] (s. 69), and remove any such obstructions built prior to that date, after notice and making reasonable compensation (s. 70). All doors to be made to open inwards (s. 71), and doors opening outwards on any Street may be altered (s. 72). Openings in pavements, as entrances to vaults, to be covered by the occupiers to the satisfaction of the Board (s. 73), and proper Shoots maintained to carry off water from the roofs without falling on passengers or flowing over the pavement (s. 74). The Board's Surveyor may give notice to the owner of ruinous buildings to take down or repair the same, and lay a complaint before two Justices, who may order the necessary works to be done, and in case of default the Board may execute the same at the owner's expense (s. 75), leviable by distress (s. 76), and in default the Board may take possession under the Lands Clauses Act(*a*) (making compensation) and sell the same (s. 77) or the materials in case such building be pulled down (s. 78). The Board must guard against accidents during the progress of buildings or repairs by proper fences and lights (s. 79), and require boards to be erected for the same purpose by the owners under penalty for neglect (s. 80). Penalty for neglecting to light or fence building materials, excavations, &c. (s. 81), or allowing such deposits, &c., to remain an unreasonable time (s. 82). In case of neglect such protection to be provided by the Board at the owner's expense (s. 83). The Board may also provide such Clocks as they may deem necessary, and place the same against any convenient Buildings and cause the same to be lighted at night (s. 143).

(*a*) See note, p. 118.

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis, no arch, vault, or cellar, can be made under any street without the consent of the Vestry or District Board of Works (18 & 19 Vict. c. 120, s. 101). Such vaults, &c., to be kept in repair by the owners, and in default the work may be done by the Board at the owners' expense (s. 102). The Board may give notice to the owner, &c., to remove any porch, shed, projecting window, or other obstruction in any street; and if the owner or occupier fail to remove the same within fourteen days, he is to forfeit not exceeding 5*l.*, and 40*s.* a day during further continuance (s. 119). They may remove previous obstructions, making compensation for damage (*a*) (s. 120). During any building, proper hoarding must be erected for safety, under like penalties (s. 121). No such hoarding or obstruction to be erected without license from the Board (s. 122), under like penalties, and the same may be removed by the Board at the owner's expense (s. 123). Such precautions to be taken during the opening of streets, or building, as may be prescribed by the Board, at the expense of the parties (*b*) (s. 124). No building can be erected over any sewer without consent of the Board (s. 204). New buildings to be set back to the general line (25 & 26 Vict. c. 102, s. 74).

(*a*) A shed was placed on an intermediate space between the road and footway, over which space the public pass subject to the use of it by the owners of the houses adjacent, who paid a yearly rent to the Lord of the Manor for such use: Held, that this was not such an obstruction in a street as might be removed by the Vestry under ss. 119, 120 of the Metropolis Management Act; the dedication to the public of such space being subject to the rights of the lord and his tenants (*Le Neve* v. *Mile End Vestry*, 8 E. & B. 1054; 27 L. J. Q. B. 208; 4 Jur. N. S. 660).

(*b*) The City Sewers Acts (see note, p. 37) contain provisions for preventing obstructions by projecting buildings (ss. 153—156); the removal of dangerous buildings (ss. 157—160, and 14 & 15 Vict. c. xci. s. 41); the erection of hoarding during the repair of buildings, &c. (ss. 161 to 166).

# CELLAR DWELLINGS.

## PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In any District to which the Public Health and Local Government Acts are applied, no cellar or underground room built or rebuilt after the 31st August, 1848, can be let or occupied separately as a dwelling; nor any which shall not have been so let before that date. Nor, six months after the Act has been applied, can any such cellar, &c., be so let or occupied, unless it be at least seven feet high in every part, at least three feet being above the surface of the street; nor unless there be along the entire frontage thereof, and upwards, from six inches below the floor thereof to the surface of the street, an open area at least 2 feet 6 inches wide in every part; nor unless drained by a drain, the top of which is at least one foot below the floor; nor unless having appurtenant thereto the use of a watercloset or privy, and an ashpit with proper doors and coverings; nor unless the same have a fireplace, with a proper chimney; nor unless there be an external window at least nine superficial feet clear of the sash frame, to open in such a manner as the Surveyor shall approve, except in a back cellar let with a front one, in which case the window is to be not less than four such feet; under penalty not exceeding 20*s.* for every day during which the same shall be so let after notice from the Board: Provided that there may be steps, if not opposite the window, and not less than six inches in every part from the external wall. All Churchwardens and Overseers are to cause public notice of such provisions to be given (11 & 12 Vict. c. 63, s. 67).

## METROPOLIS MANAGEMENT ACTS.

In the Metropolis, any room or cellar more than three feet below the street, occupied separately as a dwelling before the

14th August, 1855, must have an area not less than three feet wide from six inches below the floor of the cellar to the level of the street, and extending to the full length of the external wall, such open area to be at least five feet long and 2½ feet wide in front of the window; an open fireplace with a proper flue; a window opening of at least nine superficial feet, with glazed sashes, 4½ feet of which are made to open. But no such cellar, not then so occupied, can afterwards be let as a dwelling unless it be seven feet high, the ceiling one foot above the adjoining footway, with an open area three feet wide along the entire frontage from six inches below the floor to the surface of the footway; be effectually drained, and have a watercloset or privy, and an ashpit, a fireplace, with a proper chimney, and a window of nine superficial feet, made to open, as approved by the Surveyor to the Metropolitan Board of Works. Penalty for violation of such provisions 20*s.* a day during continuance. District Surveyors to report (18 & 19 Vict. c. 120, s. 103) in June and December in each year, and when otherwise required, as to all cellars not built in conformity with these provisions, &c. (25 & 26 Vict. c. 102, s. 62). Such Surveyors, or other person having reasonable grounds, may enter for inspection, and on refusal may be authorised by any Justice (*a*) (18 & 19 Vict. c. 120, s. 104).

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## COMMON LODGING-HOUSES.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In any District to which the Public Health and Local Government Acts are applied, no Common Lodging-House can be kept unless the same be registered; and the Local Board of Health shall cause a register to be kept of the name of every

(*a*) The City Sewers Amendment Act, ss. 10—16 (see note, p. 37), contains provisions in relation to cellar dwellings within the City of London.

person keeping such house, and the situation thereof, and make Bye-laws, fixing the number of lodgers who may be received, for promoting cleanliness and ventilation, and for the inspection thereof (*a*); and the Keeper must allow such inspection by any person producing authority from the Board; or the use of any disinfecting process at the expense of such Keeper, recoverable in a summary manner. Penalty for non-registration, or refusal of inspection between 11 a.m. and 4 p.m., not exceeding 40*s*. (11 & 12 Vict. c. 63, s. 66).

The Board may give notice, requiring the owner or occupier of any house to whitewash, cleanse, or purify the same, in case it appears on the certificate of their Medical Officer, or any two Medical Practitioners, that such house is in such a filthy or unwholesome condition that the health of any person is affected thereby, or that such purification would prevent or check infectious disease; and if such person fail to comply within the time specified, he shall be liable to a penalty not exceeding 10*s*. a day during default, and the Board may execute the work at his expense, recoverable in a summary manner (11 & 12 Vict. c. 63, s. 60).

### NUISANCES REMOVAL ACTS.

The Local Authority [see "Constitution of Local Authorities"] must take proceedings to abate overcrowding in any house inhabited by more than one family, and certified by the Medical Officer, &c., to be so overcrowded as to be injurious to the health of the occupants; and the person permitting such overcrowding is to forfeit not exeeeding 40*s*. (18 & 19 Vict. c. 121, s. 29).

### THE COMMON LODGING-HOUSES ACT.

The Common Lodging-Houses Act provides that the Metropolitan Police Commissioners in the Metropolis (*b*), Local

(*a*) See suggested forms for Bye-laws, p. 625.

(*b*) By the City Sewers Act, s. 91 (see note, p. 37) the Commissioners may make regulations for the registration and inspection of Lodging-houses within the City of London.

Boards of Health in their Districts, Councils in Boroughs, Improvement Commissioners in their Districts, or Justices in petty sessions, or petty sessional divisions in other places (14 & 15 Vict. c. 28, s. 3), the expenses to be borne by the funds at their several disposal (s. 4; and 16 & 17 Vict. c. 41, s. 14), are to give notice to the Keeper of every Common Lodging-House within their jurisdiction, to register such house (14 & 15 Vict. c. 28, s. 6). The Authority must keep a register of all such houses, their situation, and the authorised number of lodgers therein (s. 7). No lodger is to be received until such house has been approved and registered, except the relative of a deceased Keeper within four weeks after his death (s. 8; and 16 & 17 Vict. c. 41, s. 3). The Authority may refuse to register any Keeper who does not produce a certificate of character, signed by three ratepayers of at least 6*l.* value of his parish (ib. s. 4). The Authority may make regulations for any of the purposes for which Bye-laws are authorised by the 11 & 12 Vict. c. 63, *vide supra*, such regulations to be confirmed by the Secretary of State (14 & 15 Vict. c. 28, s. 9). Like penalties as by the said Act, *vide supra*, for violation of regulations (s. 10). Immediate notice of fever or any infectious disease in the house to be given by the Keeper to the Authority and the Medical and Relieving Officers of the Union, &c. (s. 11). The Authority may cause any such patient to be removed to an hospital with consent of the Authorities thereof, and on certificate of the Medical Officer that the disease is contagious and that the patient may be safely removed; and may cause any bedding, &c., to be destroyed, awarding compensation for the injury to the owners out of the poor-rates (16 & 17 Vict. c. 41, s. 7). The Keeper must give free access for inspection (14 & 15 Vict. c. 28, s. 12), and cleanse the premises, &c., as often as required by any regulation; also limewash the walls, &c., in the first week of April and October (s. 13). The Authority may by notice require the owner or Keeper, within a specified time, to obtain a proper supply of water for the use of the lodgers, and remove the house from the register in case of non-compliance (16 & 17 Vict. c. 41,

s. 6). The Keeper of any house in which vagrants are received must, if required, report to the Authority every person who resorted to his house during the preceding day or night (s. 8). Any police constable or Inspector of Common Lodging-houses, may give a certificate to the Local Authority, under the Nuisances Removal Act, 1848 (s. 1), of the existence of any cause of complaint in any such house, who must take all proceedings as therein required to be taken, on notice from two householders (s. 9). For neglect of any of such requirements, the offender is liable to a penalty not exceeding 5*l.*, and further penalty not exceeding 40*s.* for every day during continuance of offence (s. 14), or, in default, to imprisonment not exceeding three months (16 & 17 Vict. c. 41, s. 11). On conviction of a third offence, the offender may be adjudged not to keep any such house within not exceeding five years, without license from the Authority on such terms as they think fit (s. 12). The provisions of the Railway Clauses Consolidation Act as to the recovery of penalties, are incorporated (*a*) (14 & 15 Vict. c. 28, s. 15). Restrictions as to hours of inspection under the 11 & 12 Vict. c. 63, *vide supra*, are not to apply (s. 16). The Act is not to extend to the city of London, nor to Scotland (ss. 17, 18). Certified extract of register to be furnished gratis, and receivable in evidence (16 & 17 Vict. c. 41, s. 5). The two Acts are to be construed as one (s. 2).

### THE LABOURING CLASSES LODGING-HOUSES ACT.

By this Act Town Councils, Local Boards of Health, Improvement Commissioners, or, with the approval of the Secretary of State, Vestries of parishes having a population of not less than 10,000, or of two parishes having such an aggregate population, are empowered, subject to the confirmation of the ratepayers in manner prescribed, to adopt the Act (14 & 15 Vict. c. 34) within their Districts respectively; the expenses to be charged upon their respective funds or rates (ss. 1 to 14, and s. 28). In the case of any parish the Vestry are to appoint Commissioners,

(*a*) See note (*c*), p. 108.

whose proceedings shall be regulated as set forth in relation to the appointment of officers, keeping books, accounts open to inspection, audit, &c. (ss. 15 to 24). Expenses chargeable on the poor-rate (ss. 25 to 27). Commissioners, to be incorporated (s. 29); may, with approval of the Treasury, borrow money on security of the rates (s. 31), which the Public Works Loan Commissioners may advance (*a*) (s. 32). The Companies Clauses Act, 1845 (*b*), as to Mortgages, Officers, Bye-laws, Damages, and Penalties incorporated (s. 33). Commissioners may purchase lands, or appropriate borough or parish lands (ss. 34, 35). They are empowered to erect and furnish Lodging-houses for the Labouring Classes (s. 36). To make contracts for buildings (s. 37), or purchase existing Lodging-houses (s. 38). Water and gas companies may furnish supplies on favourable terms (s. 39). Commissioners not to be personally liable (s. 40). Persons aggrieved by any Bye-law, order, &c., of the Commissioners may appeal to quarter sessions (s. 41). Commissioners, &c., may sell or exchange lands (s. 42); or Lodging-houses which may be unnecessary (s. 43). On the sale of all such Lodging-houses the Corporation to cease (s. 44). Management, Bye-laws, &c. (ss. 45 to 48). No tenant to receive parochial relief (s. 49). Lodging-houses within the District of a Local Board of Health to be open to inspection by them (s. 50). Penalty on officers for taking fees, &c., not exceeding 50*l.*, and to become thereby incapable of acting (s. 51); half to the informer (s. 52). Act not to extend to Scotland (s. 53).

### LABOURERS' DWELLINGS ACT.

Under this Act joint-stock companies may be incorporated for providing Dwellings for the Labouring Classes, properly constructed as respects drainage, ventilation, water supply, and conveniences (*c*), and subject to rules as to capital, interest, powers of mortgage, letting, &c. (18 & 19 Vict. c. 132, ss. 1 to 11). Penalty for misappropriation of funds (s. 12); and for insuffi-

(*a*) See note, p. 126. (*b*) See note, p. 50.

(*c*) "As may be approved by the General Board of Health;" but see 20 & 21 Vict. c. 98, s. 8.

cient drainage or obstruction of inspection (ss. 13, 14). Part of Lands Clauses Act incorporated (*a*) (s. 15). Recovery of penalties (16). Act not to extend to Scotland (s. 17).

## BURIAL GROUNDS.

### PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

For the regulation of Interments in Districts to which the Public Health and Local Government Acts are applied, Local Boards of Health may provide reception houses for the dead, and make Bye-laws with respect to the management of the same, and, on application, make arrangements for the interment of any corpse received therein (11 & 12 Vict. c. 63, s. 81). Interment in any Burial Ground within the District of any Local Board, if dangerous to health, may be prohibited under penalty of 20*l.* (s. 82); and no interment is to take place under any new place of worship in any district to which the Public Health Act has been applied, nor any new Burial Ground not previously authorised by Parliament formed therein, without the consent of the General Board, under penalty of 50*l.*, recoverable by any person in an action of debt (s. 83). But these provisions are practically superseded by the 18 & 19 Vict. c. 128, s. 20, so far as relates to the Local Boards therein mentioned; and the consent of the Secretary of State is now substituted in all cases in which the consent of the General Board was required (24 & 25 Vict. c. 61, s. 14). The Act 21 & 22 Vict. c. 98, s. 49, contains certain provisions purporting to allow a Local Board to act as a Burial Board for part of its District; but the section is practically inoperative. Such Local Board may, however, be constituted the Burial Board within its District by Order in Council (20 & 21 Vict. c. 81, s. 4). All Local Boards of Health, constituted Burial Boards, may from time to time repair and uphold the fences surrounding any Burial Ground which shall have been discontinued as such within their jurisdiction, or take down such fences and

(*a*) See note, p. 118.

substitute others in lieu thereof (*a*), and are, from time to time, to take the necessary steps for preventing the desecration of such Burial Grounds, and placing them in a proper sanitary condition; and where such Burial Boards are Local Boards of Health they may from time to time pass Bye-laws for the preservation and regulation of all Burial Grounds within their limits (*b*), and the expense of carrying this section into execution is to be defrayed out of any rates authorised to be levied

(*a*) By the 59 Geo. 3, c. 134, s. 39, the Church Building Commissioners may, with consent of two Justices, and on notice given according to 55 Geo. 3, c. 68, alter, repair, pull down and rebuild the walls or fences of any existing burial ground of any parish or chapelry; and may also stop up and discontinue, alter or vary, any entrance or gate leading into any burial ground, and the paths, footways and passages into, through, or over the same, as to them may appear useless, or as they shall think fit.

(*b*) Any nuisance in the churchyard is properly of ecclesiastical cognizance (*Quilter* v. *Newton*, Carth. 152). By the Common Law the parishioners are bound to repair the fence of the churchyard at their own charge (Lind. 253; 2 Inst. 489). By prescription the vicar may be liable to repair the fence, and an indictment will lie for a misdemeanour if any damage be occasioned by neglect (*R.* v. *Reynell*, 6 East, 315). If owners of adjoining lands have been used to repair, such is a good custom, and proceedings may be had at Common Law for neglect. By Canon 85, the churchwardens are to see to the repair, &c., of the churchyard in manner as accustomed, at the charge of the proper parties. The incumbent may bring his action for any trespass in the churchyard (Bro. Abr. Trespass, 210); so also may his lessee (2 Rol. Abr. 337). Trespass lies for the erector of a tombstone against a person who wrongfully removes it; although the freehold of the churchyard is in the parson, even he has no right to remove the tombstones, the property of which remains in the persons who erected them (*Spooner* v. *Brewster*, 3 Bing. 136; *Bryan* v. *Whistler*, 8 B. & C. 288). Monuments or buildings of height cannot legally be erected without a faculty from the ordinary (*Seager* v. *Bowle*, 1 Add. 541; *Bardin* v. *Calcott*, 1 Hagg. Consis. 14). A bequest to churchwardens for keeping certain tombs in repair is void (*Rickard* v. *Robson*, 8 Jur. N. S. 665). The Ecclesiastical Court cannot allow any portion of consecrated ground to be converted to secular uses, nor grant a faculty to confirm such appropriation (*Harper* v. *Forbes*, 5 Jur. N. S. 275; *Rector of Wallbrook* v. *Parishioners*, 2 Robert. 515; *Walter* v. *Montague*, 1 Curt. 253); and the Court will compel the restoration of any portion of such ground which has been improperly removed (*Jarret* v. *Steel*, 3 Phillim. 167; *Knapp* v. *Parishioners of Willesden*, 2 Robert. 364; *Campbell* v. *Parishioners of Paddington*, *Id.* 588); but the Court will grant a faculty for the erection of schools in a churchyard in certain cases (*The Rector of St. George* v. *Stewart*, 2 Str. 1126), and especially if the ground be closed under the Burial Acts (*Russell* v. *Parish of St. Botolph*, 5 Jur. N. S. 300).

by any Local Board constituted a Burial Board (24 & 25 Vict. c. 61, s. 21).

## THE BURIAL ACTS (a).

Under the general Statutes for the regulation of Burial Grounds, it is provided as follows:

*As to Old Burial Grounds.*—Her Majesty, in Council, on

(a) The whole of the Burial Acts having been printed in a separate work (the "Laws Relating to Burials") by the author, it has not been thought necessary to repeat them in the appendix to this volume.

During the twelve years since the passing of the first Burial Act in 1852, a great sanitary revolution, as regards the burial of the dead, has quietly taken place in this country. Within this period, some four hundred local Burial Boards have been constituted, and there is scarcely a market town of any consequence which has not already provided, or is now engaged in providing, adequate means for the decent interment of its dead beyond the dwellings of the living. During these twelve years, also, about five hundred Orders in Council have been issued, by which near four thousand old burial grounds, belonging to religious professors of all denominations, have been either closed or placed under regulation. Perhaps the majority of these consisted of mere scraps of ground wedged in, as it were, between densely inhabited districts; each church or chapel being surrounded with its own precinct of corruption. In the new cemeteries, which are commodious and well drained, sufficient space is provided for all sects and all ranks, uniting thus, after the petty contentions and distinctions of life are over, "all sorts and conditions of men" into one common fold. Not surcharged burial grounds alone, but the use of vaults under places of worship, have been discontinued under these Acts. Accordingly, in the Metropolis only, nearly one hundred church vaults—each, for the most part, occupying the entire space beneath the building—have been thoroughly disinfected and permanently built up. An interesting illustration of the cordial manner with which this great social reform has been received by the ratepayers of England, is afforded by the fact that a sum exceeding 1,400,000*l.* has been already raised for the provision of the parochial cemeteries in question.

The interment of the dead beneath and around churches has been called a "distinctive feature of Christian burial;" but the persons who make this assertion forget that burial in the time of Christ was extramural. The Widow of Nain was following her son out of the city. Lazarus was interred in a cave beyond Bethany. The demoniac at Gadara, dwelling among the tombs near the coast, met Jesus as he approached towards the town; and the Holy Sepulchre was in a garden outside Jerusalem. So far from condemning this custom, our Saviour, in one of his strongest figures, would seem to indicate an approval of it: the hypocritical Pharisees were compared to "whited sepulchres—full of dead men's bones and all uncleanness." The truth is, that we owe the introduction of "Church burial" to the superstitious observances of the dark ages.

the representation of the Secretary of State (*a*) (certain forms having been complied with), may Order the discontinuance of burials in any Burial Ground in England and Wales (16 & 17 Vict. c. 134, s. 1), or for preventing vaults or places of burial from becoming dangerous to the public health (*b*) (20 & 21 Vict. c. 81, s. 23; 22 Vict. c. 1, s. 1) (*c*). Such Order cannot prevent burial in any Cemeteries that may have been established under the special authority of Parliament (*d*) (16 & 17 Vict. c. 134, s. 5), but may establish regulations in respect of all burials in common graves in such

(*a*) All complaints, or applications for the closing of existing burial grounds, for extension of time, for the alteration of Orders in Council or regulations, should be addressed to the Secretary of State, Home Office, Whitehall.

(*b*) In vault burial the separate entombment of coffins with the use of charcoal is frequently resorted to, thus preventing the escape of offensive effluvia on re-opening the vault for future interment. A kind of charcoal well adapted for this purpose, which is made from saw-dust, and, therefore, sufficiently powdered for use, is produced in some chemical manufactories at a moderate price.

(*c*) An Order of her Majesty in Council, by virtue of this section, will, it is presumed, justify all acts done under it, including the removal of bodies interred without a faculty or any other authority.

(*d*) In *R.* v. *Manchester* (Justices) it appeared that St. George's Church, Hulme, in Manchester, with a churchyard adjoining, was established and provided under the Church Building Acts, and under stat. 13 & 14 Vict. c. 41, it was constituted a parish and rectory. By an Order in Council, under the 16 & 17 Vict. c. 134, it was ordered *inter alia*, that after 1st June, 1855, no more than one body should be buried in any grave in St. George's Churchyard, Hulme, in Manchester. The rector disputed the validity of this order, and assisted at the burial of two bodies in one grave after the time specified. The rector maintained that, as his rectory was not an ancient parish with a churchyard established at Common Law, the churchyard there is within the letter of the exception in sect. 5 of the 16 & 17 Vict. c. 134. Lord Campbell, C. J.: "The question very properly submitted to us in this case, turns upon the validity of the Order in Council, dated 21st May, 1855; and this depends entirely upon whether this churchyard comes within the exception contained in the statute as being 'a cemetery established under the authority of any Act of Parliament.' In one sense, the churchyard was established under the authority of an Act of Parliament. But we do not think that this construction is to be put upon the words as used in the exceptive clause. We attach little weight to the argument that the word 'cemetery' only is to be found in the exception relied upon, without the words 'burial ground' being added, as the word 'cemetery,' both in its original meaning

Cemeteries (20 & 21 Vict. c. 81, s. 10). Any Order in Council may be amended or repealed by any subsequent order (18 & 19 Vict. c. 128, s. 1). Any person assisting at any burial in violation of such Order is guilty of a misdemeanour (16 & 17 Vict. c. 134, s. 3), and liable to a penalty of 10*l.* (*a*)

and as commonly used, is quite sufficient to comprehend all Christian burial grounds. Looking, however, to the object of the legislature and the enactments of the statute 15 and 16 Vict. c. 85, a statute *in pari materiâ*, we do not think that, when the laws concerning the burial of the dead which had been enacted for the Metropolis were to be extended to the rest of England, there was any intention to prevent the Queen in Council and the Secretary of State from making orders respecting the cemeteries attached to district churches beyond the limits of the Metropolis. Section 7 of statute 15 & 16 Vict. c. 85, excepts from the provisions of that Act cemeteries mentioned in the Schedule (B). This schedule does not contain any of the Church Building Acts, and is confined to Acts for establishing cemeteries within the Metropolitan District by cemetery companies (during the argument appropriately designated 'commercial cemeteries'), leaving all burying grounds attached to district churches established under the Church Building Acts within the extensive area of the Metropolis, comprehending large portions of the counties of Middlesex, Surrey, and Kent, subject to the Orders of the Queen in Council and the Secretary of State, to be made with a view to the public health. No reason can be assigned why the Queen in Council and the Secretary of State should not have the same power over a district churchyard at Manchester, as over a district churchyard at Bethnal Green. In truth, these churchyards in parochial districts, established under the Church Building Acts (with respect to the purposes and policy of the Interment Acts), are not to be distinguished from churchyards belonging to parishes which have existed from time immemorial. We therefore think, that a more limited construction ought to be put upon the words 'any cemetry established under the authority of any Act of Parliament' than was contended for in the argument. The exception seems to contemplate only cemeteries established by authority of a special Act, such as those enumerated in Schedule (B) to statute 15 & 16 Vict. c. 85, as Kensal Green, and other 'commercial cemeteries.' Consequently the Order is valid" (5 Ell. & Bl. 702; 2 Jur. N. S. 182; 25 L. J. M. C. 45).

(*a*) The term "misdemeanour" is applied to offences for which no particular name has been provided by law, and may be punished by fine and imprisonment. Any crime less than a felony is called a misdemeanour. It is presumed, that though there may be a choice of punishments, both would not be enforced. As to recovery of this latter penalty, see note, p. 55.

The 58 Geo. 3, c. 45, s. 80, imposes a penalty of 50*l.* on any person ordering or causing the making of any grave (vaults of a certain description excepted) within twenty feet of the external walls of any church erected under the provisions of that Act. This penalty is recoverable before any two Justices, by distress and sale, one-half to be paid to the informer, and the other to the use of the poor.

(18 & 19 Vict. c. 128, s. 2). Notwithstanding such order, license may be granted, under certain circumstances, by the Secretary of State for the continued use of private vaults and graves (*a*) (16 & 17 Vict. c. 134, s. 4). The Incumbent and Churchwardens of any parish having a chapel not locally situate in the parish, the Burial Ground of which chapel shall have been closed, may convey such chapel to new trustees (15 & 16 Vict. c. 85, s. 51). The Vestry of any parish in which a closed Burial Ground is situate, not belonging to such parish, may purchase same (20 & 21 Vict. c. 81, s. 8); and the Trustees of closed Cemeteries may, with the sanction of the Secretary of State, let, lease, or sell such portions thereof as have not received interments (s. 24) (*b*). The Burial Board

(*a*) Application for such license should not be deferred until a death has taken place, as then there can be no sufficient time to inquire into the circumstances. The best time is immediately after the order has been made.

Where no Order in Council has been made by virtue of these statutes, the consent of the incumbent, and his alone, is necessary to burial in any part of his church (Cro. Jac. 367; Gibs. 453; Wats, c. 39—887); but he cannot grant the separate use of any vault either in the church or churchyard without a faculty (*Bryan* v. *Whistler*, 8 B. & C. 288); nor refuse burial in a vault for which such faculty has been granted. In the case of *Neville* v. *Baker* (*Arches Court, not reported*), a clergyman was suspended three months for refusing burial in a family vault. *Per curiam*, The consent of the incumbent to the faculty (for every prescription presumes a faculty), when the vault was constructed, will bind his successor; nor is it necessary to prove the constant use of a vault existing from time immemorial. The head of the family has, moreover, a right to admit any member of the family who, though non-resident, is a parishioner; but no blame would attach for refusing burial in any place proved to be dangerous to health—it would be a duty to do so.

(*b*) In the case of *Moreland* v. *Richardson* persons had purchased for a valuable consideration, more than twenty years ago, family graves in perpetuity in a private burying ground, which was afterwards closed by Order of the Queen in Council. There was no formal grant executed, but their right was evidenced by a receipt for the purchase money stating the purchase. This right, the defendants who were the deacons, and some of the managing members of the congregation, had so far interfered with since the Order in Council closing the graveyard, as to remove the tombstones from the heads of the graves, and lay them with their faces downwards so as to form a very neat pavement all round the chapel. The plaintiffs protesting against such an act of desecration, as far as their ancestors were concerned, and of exclusion as far as their own personal remains might subsequently be affected, moved for an injunction to prevent the deacons from so interfering with them in the enjoy-

or Churchwardens must maintain (*a*) the closed Churchyard of any parish in decent order (18 & 19 Vict. c. 128, s. 18). No new Burial Ground can be opened in any District wherein any Order in Council has been made, without the previous approval of the Secretary of State (*b*) (16 & 17 Vict. c. 134, s. 6); but after approval and opening, such New Grounds cannot be closed in future (s. 5).

ment of their rights. Sir J. Romilly, M.R., held, that they were entitled to an injunction to restrain the trustees from removing or injuring the graves or gravestones, or from interfering with the interment of any of the plaintiffs or their families in the graves claimed by them, which the Secretary of State did not object to. But held also, that the relief might be limited to the spot purchased by the plaintiffs, and that the rights of the trustees to the remainder was unaffected (22 Beav. 596; 2 Jur. N. S. 726; 25 L. J. Chan. 883; see also 24 Beav. 33; 26 L. J. Chan. 690; 3 Jur. N. S. 1189).

(*a*) By an Order in Council, under the 16 & 17 Vict. c. 134, s. 1, burials had been discontinued in the burial ground, called St. Paul's Churchyard, in the township of Westgate; a joint Burial Board had been appointed for the parish of St. John, and the townships of Westgate and Elswick; the fences of the said burial ground required repair; there were no churchwardens liable to keep it in repair, and no fund legally chargeable with maintaining it. The Burial Board were required by *mandamus* to do the necessary repairs. It was contended that the burial ground was not a churchyard, or burial ground of any parish, or of any place having separate overseers and maintaining its own poor, but was the property of certain private persons:—Held, that sec. 18 *supra* is clearly confined to burial grounds "of a parish," that is, belonging to a parish, and does not extend to burial grounds of private individuals situate in a parish (*R.* v. *Westgate and Elswick*, 31 L. J. Q. B. 205).

(*b*) When any new site has been selected, an ordinary letter stating the fact, and requesting approval of the same, should be addressed to the Home Secretary. With regard to sites for churches and the enlargement of burial grounds, it may be remarked that the 56 Geo. 3, c. 141, s. 1, enables ecclesiastical corporate bodies to alienate lands for these purposes with consent of the patron and ordinary, after valuation by some competent person verified before a Justice (s. 2). No such alienation to be questioned for want of form after twenty years (s. 3). All ground which has been or shall be consecrated shall after twenty years be discharged from all adverse titles, claims and demands whatsoever, and be absolutely vested in trustees or the incumbent (s. 4). By 58 Geo. 3, c. 45, the Commissioners may accept sites for churches and churchyards (s. 33), which persons under disability are empowered to convey (s. 36), and if unwilling or unable to treat, the matter may be settled by a jury (s. 40). And the same Commissioners are empowered by 59 Geo. 3, c. 134, to grant money for providing or enlarging cemeteries (s. 22), or churchwardens may levy rates for these purposes (s. 23). All parishes required by the Commissioners shall furnish lands for enlarging or making additional churchyards as the

*Appointment of Burial Boards.*—The Churchwardens of any parish are empowered—and if any Order in Council has been made, or notice given, they are required—to call a meeting of the Vestry (*a*) to determine whether a new Burial Ground

Commissioners shall deem necessary, in the manner therein set forth (ss. 36, 7, 8); and under the 3 Geo. 4, c. 72, Public Departments and all Corporations may grant sites for cemeteries without valuable consideration (s. 1). Commissioners may procure or require parishes to obtain sites for additional cemeteries whether contiguous to the present site or not (s. 3). And may advance money for the same on security of church rates (s. 5—7), and may take land for the purpose on paying value assessed (s. 8). Or the Commissioners may authorise parishes to purchase additional burial grounds, which shall be deemed part of such parish (s. 26); but the power to make a rate for the purpose under these Acts has been doubted (see *Whitwick Churchwardens* v. *Stinson*, 18 J. P. 711; 23 L. J. M. C. 154); and these powers, for the provision of burial grounds, are for the most part practically superseded by the recent Acts embracing the whole subject of burial accommodation.

(*a*) By a Private Act (5 Geo. 1, c. 19) constituting the township of Sunderland a distinct parish, a Vestry consisting of twenty-four persons was to be triennially elected, for the preserving better order in the new parish, for better raising and ascertaining all taxes and assessments, for buying bells for the church, finishing it and keeping it in repair, defraying the expenses of the churchwardens concerning the same, providing stipends for rector and parish-clerk, and salary for scavenger, and making orders and Bye-laws, and keeping and maintaining good rules and order in and about the church. The statute gave the Vestry power and authority to appoint and remove scavengers, to make all necessary rules for the purposes of the Act, to rate occupiers in the parish for defraying the authorised expenses, &c. The statute also subjected the inhabitants to the customs of the parish of which the township had formed part for the choice of churchwardens, overseers, and other parish officers; and the Vestry of the new parish, in pursuance of such custom, chose the churchwardens (one nominated by the rector), nominated the overseers and parish constable (who were afterwards appointed and sworn in, respectively, by the Justices), and appointed inspectors of weights and measures, and laid rates for the purposes mentioned in the Act:—Held, that such a Vestry was within the meaning of sect. 52 of stat. 15 & 16 Vict. c. 85, as a vestry "elected under the provisions of any Local Act of Parliament for the government of any parish by Vestries;" and must, therefore, on the requisition of ratepayers, under sect. 10 (extended by stat. 16 & 17 Vict. c. 134, s. 7), be convened for the special purpose of determining whether a burial ground should be provided, under the Act, for the parish. It would be monstrous to direct a *mandamus* to a body which has never been called into existence (*R.* v. *Peters, In re Sunderland Burial Board*, 6 El. & Bl. 225; 25 L. J. Q. B. 271; 2 Jur. N. S. 424).

The duties of the Board of Guardians for the parish of Liverpool were, by

shall be provided for the parish (18 & 19 Vict. c. 128, s. 8). And if the Vestry shall resolve that a Burial Ground shall be provided (*a*), a copy of such resolution must be sent to the Secretary of State (15 & 16 Vict. c. 85, s. 10); and they shall appoint a Burial Board for that purpose, consisting of not

statute 5 & 6 Vict. c. 88, transferred to a select Vestry, consisting of the rector, churchwardens, and overseers for the time being, together with twenty-one other elected persons, to be styled "the Select Vestry of the parish of Liverpool," for the performance of all duties, &c., imposed upon guardians of the poor; and such select Vestry has been from time to time constituted under the said Act. The question whether such Vestry was not "a Vestry elected under the provisions of a Local Act for the government of the parish" within sect. 52 of the 15 & 16 Vict. c. 85 was raised on motion for a *quo warranto* against a Burial Board elected at a meeting of the general Vestry of the parish of Liverpool:—Held, that the members of the Burial Board for the town of Liverpool had been duly elected. It is important that the members of a Board who are to tax the ratepayers should be chosen by those who are to pay. 15 & 16 Vict. c. 85, gives the right of election to the Vestry at large, unless there is a select Vestry to manage the affairs of the parish. In Liverpool there is no such select Vestry, the body so called being only the Guardians of the Poor under another name. *The Sunderland case* is distinguishable, because there the select Vestry were the real governing body of the parish (*Reg.* v. *Gladstone, In re Liverpool Burial Board*, 7 El. & Bl. 575; 26 L. J. Q. B. 213 (*Ex parte Urquhart, &c.*); 3 Jur. N. S. Q. B. 441). For *Vestry*, see further, note, p. 27.

(*a*) A Burial Board was constituted for the parish of Walcot, and had incurred expenses which were chargeable upon the poor-rates of the parish; and a certificate of the Board was served upon the overseers, requiring them to pay such sum to the clerk to the Board, which the overseers refused to pay, on the ground that the church of Walcot was a rectory, and that before the constitution of the Burial Board the parish had been divided into three separate parishes for all ecclesiastical purposes, and at the time of such division there was in each division a separate church, and before the constitution of the Burial Board the churches respectively were the parish churches of the three separate parishes respectively:—Held, that prior to the passing of the 23 & 24 Vict. c. 64, "the Vestry of the entire parish had power to appoint a Burial Board, and that Board, when appointed, had power to exercise all those powers and rights given to them by the 15 & 16 Vict. c. 85, and that the Burial Board so established had jurisdiction over all the component parts of this entire parish, including these minor ecclesiastical parishes established for ecclesiastical purposes. A parish having separate overseers, and having overseers of its own, and separately maintaining its own poor, is a parish within the meaning of the Act; and that there is no subsequent legislation that says, if they had been divided for ecclesiastical purposes, not separate parishes, that it shall cease to be such" (*R.* v. *Walcot Overseers*, 31 L. J. M. C. 217; 10 W. R. Q. B. 599).

less than three or more than nine persons (*a*). The Incumbent to be eligible, though not a ratepayer (s. 11). One Burial Board may be appointed for several united parishes (18 & 19 Vict. c. 128, s. 11) (*b*),—but in case any part separately

(*a*) In boroughs, the Town Council may become the Burial Board (see 17 & 18 Vict. c. 87).

(*b*) The hamlet of Coleshill is part of the parish of Amersham, and is a place separately maintaining its own poor, and united for ecclesiastical purposes with the parish of Amersham, also separately maintaining its own poor, and the two places have a church and a burial ground for their joint use, and the inhabitants have been accustomed to meet in one Vestry for purposes common to such places. A Vestry of the two places, *i.e.*, of the parish of Amersham, with the approval of the Secretary of State, appointed a Burial Board for the parish of Amersham. And the Burial Board, with the sanction of such Vestry, and the approval of the Commissioners of the Treasury, borrowed money required for providing a cemetery under the Burial Acts, and charged the future poor-rates of the parish with the payment of such money and interest. On the Burial Board requiring a sum to meet the first instalment of principal money and expenses, a demand was made to the overseers of Coleshill for the portion of such sum charged in respect of the hamlet, which they refused to pay:—Held, that the constitution of the Board and the mode of taxation adopted in this case, carry out, in the way that seems most feasible, the object of the provisions of the Act (*R.* v. *Coleshill Overseers*, 31 L. J. Q. B. 219).

In the case of *R.* v. *Sudbury Burial Board*, it appeared that the parishes of St. Peter, St. Gregory, All Saints, and the Hamlet of Ballington-cum-Brandon, in the borough of Sudbury, constituted part of the Sudbury Union, formed under an order of the Poor Law Commissioners; and previously to the coming into operation of the said order, the Poor Laws had been administered for the said parishes by a body corporate, called "The Governor and Deputy Governor, Assistants, and Guardians of the Poor in the town of Sudbury" (commonly called "The Court of Guardians"), appointed in pursuance of an Act of the 1 Anne. The said Governor, &c., of the poor in the town of Sudbury (constituting the body corporate mentioned in the said Act of Queen Anne) still continued to be appointed in the manner directed by that Act, and to perform the duties thereby imposed upon them, except so far as the same have been altered since the formation of the Union. One poor-rate was made for the three parishes, and the poor were maintained indiscriminately, but the hamlet of Ballingdon-cum-Brandon had separate overseers, and maintained its own poor separately. By an Order in Council, the burial grounds in the borough of Sudbury were closed, and a joint Burial Board was formed for the said parishes and the said hamlet, and the Board purchased a piece of land for a burial ground for the common use of the said parishes and hamlet. The site received the approval of the Secretary of State, and the Board took possession of the land and caused it to be prepared as a cemetery. The Vestries of the three parishes had given their sanction, authorising the Board to borrow money,

maintains its own poor, or has a separate Burial Ground, or has been divided for ecclesiastical purposes, the approval of the Secretary of State is necessary (*a*) (20 & 21 Vict. c. 81,

and the requisite approval of the Treasury had been obtained, but the Board had been unable to borrow, as an objection was made that, the Corporation not being a parish within the meaning of the 15 & 16 Vict. c. 85, ss. 23 and 52, the Board was not properly constituted, and had therefore no borrowing powers conferred upon it by that statute. Lord Campbell, C. J. : "I think that the construction of sect. 23, 15 & 16 Vict. c. 85, which has been suggested in showing cause against this rule, is directly repugnant to the scope of the statute, and would defeat the manifest intention of the Legislature in many instances, and therefore the word 'parish' cannot be so construed. The meaning of sect. 23 is, not to exclude every parish which has not separate overseers, and does not separately maintain its own poor, but to include all such places as do so under the word 'parish.'"—Wightman, J. : "I am of the same opinion. In this case the exception in the Interpretation Clause, 'unless there be something in the subject or context repugnant to such construction' applies."—Erle and Crompton, JJ., concurred (Ell. Bl. & El. 264; 27 L. J. Q. B. 232; 4 Jur. N. S. 948).

(*a*) Middlewich is an ancient parish, consisting of fifteen distinct townships, of which Minshull Vernon is one, each of which said townships has separate overseers and separately maintains its own poor. The inhabitants of the whole parish assembled in one Vestry, and there was a burial ground attached to the parish church within the township of Middlewich. A meeting of the Vestry of the parish was held, when it was resolved that a new burial ground should be provided for the parish, and certain persons were appointed to be the Burial Board of the parish, who borrowed money upon mortgage of the poor-rates. To enable them to make the first annual payment of the principal and interest, the Burial Board apportioned such sum among the fifteen townships forming the parish, and the amount apportioned to the township of Minshull Vernon not having been paid by the overseers, a *mandamus* was obtained, commanding them to pay the same according to the provisions of the Acts 16 & 17 Vict. c. 134, and 17 & 18 Vict. c. 87. The return stated, that the township of Minshull Vernon is a place "having separate overseers of the poor, and separately maintaining its own poor;" and that the Burial Board was appointed after the passing of the Burial Acts Amendment Act, 1857 (20 & 21 Vict. c. 81); that the Burial Board was appointed without the approval of the Secretary of State, as required by section 9 of that Act; that the township of Minshull Vernon has a separate and sufficient burial ground attached to a new church in the township, and that a particular district had been assigned to the said church for ecclesiastical purposes; and that the Burial Board was appointed and the money borrowed without the authority of the vestry of the township of Minshull Vernon. *Per curiam*, Q. B.—The difficulty in which the Burial Board of Middlewich is placed appears to be this—that they cannot apportion the sums to be contributed by the various townships within the boundaries of the parish, unless they bring themselves within the provisions of

s. 9; 23 & 24 Vict. c. 64, s. 4),—or for Townships having separate Burial Grounds (18 & 19 Vict. c. 128, s. 12), or for Districts not maintaining their own poor, and having no

the 18 & 19 Vict. c. 128, s. 11, and then they are hit by the 20 & 21 Vict. c. 81, s. 9, which renders the consent of one of the Secretaries of State necessary to their proceedings. We think the objection taken is fatal to this *mandamus*. (*R.* v. *Wright*, 8 Jur. N. S. 260.)

The parish of Tunbridge, maintaining its own poor, includes within its area the town of Tunbridge Wells and the hamlet of Southborough. The town of Tunbridge Wells has an ecclesiastical district; and has not, since 1849, contributed to the general church-rate of the parish, but it did so contribute for the period of twenty years, and has also its own separate churchwardens—the churchwardens appointed for the mother church at Tunbridge having no jurisdiction or any concern within the Tunbridge Wells ecclesiastical district, as regards ecclesiastical matters. A Vestry is held at Tunbridge Wells for the appointment of their churchwardens, making a church-rate, &c. The hamlet of Southborough has a church, and a district assigned to it, but still contributes to the general church-rate of the parish. The regular Vestries for the whole parish are held at the mother church at Tunbridge at which a church-rate is made for the parish, except the Tunbridge Wells ecclesiastical district. Tunbridge Wells and Southborough have each their separate burial grounds. Neither Tunbridge Wells nor Southborough appoints separate overseers, nor maintains separately its own poor, there being a common poor-rate for the entire parish. A meeting of the inhabitants of the parish was held in the vestry-room of the mother church at Tunbridge, and a Burial Board was formed for such part of the parish of Tunbridge as is not included in the Tunbridge Wells ecclesiastical district. The Burial Board, constituted by the inhabitants of Tunbridge, made a cemetery at the end of Tunbridge town; and a rate was made for defraying the expenses incurred by the Burial Board. The appellant contended that the rate was void, and could not be enforced, the Burial Board not being legally constituted, or appointed for a legally constituted burial district in the manner required by the 18 & 19 Vict. c. 128, ss. 11, 13. Lord Campbell, C. J.: "I think I am now in a situation safely to answer the question, whether Tunbridge Wells is entitled to have a Burial Board of its own? I think it is. If so, it follows as a necessary consequence that the rest of the parish must take the proper steps, and constitute a Burial Board for the parish exclusive of Tunbridge Wells. It seems to me there is no doubt, that, being an ecclesiastical district, and having a Vestry for all ecclesiastical purposes, and not separately maintaining its own poor, it may have a Burial Board of its own exclusive of the parish; and if it may have a Burial Board of its own, then that the rest of the parish, by implication, may appoint a Burial Board of its own, exclusive of the township."—Erle, J.: "I am of opinion that the Burial Board was well constituted. Sect. 11 of stat. 18 & 19 Vict. c. 128, has made provision for Burial Boards for parishes, with the addition of other places, where places can be added to the parish; and then the parish, with these places, are to constitute a Burial Board. Then comes the 12th

separate Burial Grounds (20 & 21 Vict. c. 81, s. 5) (*a*). Vestries of two or more parishes may concur in providing one common Burial Ground (15 & 16 Vict. c. 85, s. 23), in which case all acts are to be sanctioned by the Vestries of a majority of parishes (20 & 21 Vict. c. 81, s. 1); and the Vestries may afterwards dissolve the union of such Joint Boards (s. 2). The proceedings of Vestries are not to be voidable for want of form unless objected to within seven days (s. 27). Definition of terms (15 & 16 Vict. c. 85, s. 52). Town Councils in Boroughs may, on petition to the Queen in Council, become the Burial Boards for their respective Boroughs (17 & 18 Vict. c. 87, s. 1); and like powers may be exercised by certain Local Boards of Health (18 & 19 Vict. c. 128, s. 20). Such Local Boards, as well as Improvement Commissioners, may also be constituted Burial Boards by Order in Council (20 & 21 Vict.

section, and provides for a division of a parish. Under that section the Vestry of a district not separately maintaining its own poor may appoint a Burial Board, and exercise the same powers in relation to such Burial Board as are vested in the Vestry of a parish separately maintaining its own poor, so that the district may be severed from the mother parish, and have a separate Burial Board. Then it is said, that such division having taken place, there may be a separate Burial Board for Tunbridge Wells; but the rest of the parish cannot appoint a Burial Board. Such a case seems to me to come clearly within the statute. If the parish is too large to have one Burial Board for the parish, there may be a Burial Board for part of the parish severed from the rest; then, by implication, the rest of the parish may have a Burial Board of its own, although no express provision has been made in the statute." (*Viner* v. *Tunbridge Overseers*, 5 Jur. N. S. 1293.)

(*a*) The parish of Walcot was divided into three separate parishes for ecclesiastical purposes, and since the passing of the 20 & 21 Vict. c. 81, a Burial Board had been constituted for the ecclesiastical parish of St. Saviour's, being one of the three ecclesiastical parishes into which the parish of Walcot is divided. The Burial Board had incurred certain expenses in the execution of their duties, which the overseers refused to pay, on the ground that before the Burial Board of St. Saviour's was constituted, it was resolved by the Vestry of Walcot that a burial ground should be provided for the whole parish, and a Burial Board was appointed for the parish:—Held, that whatever may have been done by the general parish in the appointment of a general board with a view to a common burial ground, does not supersede the powers given by the fifth section to a district parish in establishing for itself its own burial ground and Burial Board. (*R.* v. *Walcot St. Swithin*, 31 L. J. M. C. 221; 10 W. R. p. 602.)

c. 81, s. 4), who may make a separate Burial rate (23 & 24 Vict. c. 64; 25 & 26 Vict. c. 100). Vacancies in the Burial Board are to be filled up (15 & 16 Vict. c. 85, s. 12; 18 & 19 Vict. c. 128, s. 4) (*a*). The City Commissioners of Sewers are constituted the Burial Board for the city of London (15 & 16 Vict. c. 85, s. 43).

*Proceedings of Burial Boards.*—Meetings are regulated by the 15 & 16 Vict. c. 85, ss. 13, 14. The Burial Board may appoint clerks, officers, and servants, at reasonable salaries approved by the Vestry (s. 15). They are to keep minutes of their proceedings and accounts open to inspection (s. 16), and allow copies to be taken, under penalty for refusal, not exceeding 5*l.* (s. 17). The accounts to be audited annually by persons appointed by the Vestry (s. 18). Any expenses beyond receipts, approved by the Vestry, or in their default by the Secretary of State (18 & 19 Vict. c. 128, s. 6), will be defrayed out of the poor-rates (15 & 16 Vict. c. 85, s. 19; 18 & 19 Vict. c. 128, s. 13). Money may be borrowed on the security of the poor-rates (15 & 16 Vict. c. 85, s. 20). The Public Works Loan Commissioners are authorised to advance money (*b*) for the purposes of these Acts (s. 21). The Commissioners Clauses Act, 1847, with respect to Mortgages are incorporated (*c*) (20 & 21 Vict. c. 81, s. 19). A sinking fund

(*a*) The 18 & 19 Vict. c. 128, s. 4, does not take away or diminish the power of the Vestry to fill up a vacancy in the Burial Board: it only gives to the Board when a vacancy has existed for one month, a concurrent power with the Vestry (*R.* v. *South Weald Overseers*, 4 New Reports, 323).

(*b*) See note, p. 126.

(*c*) The powers conferred by the Commissioners Clauses Act (10 Vict. c. 16) may be extended to such Commissioners as are constituted by any "special Act," with which any of its clauses may be incorporated, to be construed as if such clauses were set forth therein with reference to the matter to which such Act relates (ss. 1, 5). With respect to mortgages on security of rates, they shall be by deed duly stamped, and be under seal of the Commissioners (*i.e.*, Burial Board, *vide supra*) (s. 75). A register, in which entries shall be made within fourteen days of date, shall be kept by the clerk, and be open to inspection without fee (s. 76); mortgages may be transferred (s. 77); transfers to be registered within thirty days on payment of fee of five shillings; except to whom mortgage be last transferred, no person shall have power to

to be provided to pay off mortgages (s. 20), or money may be raised on terminable annuities (s. 21). Any surplus above expenses is to be paid over in aid of the poor-rate (15 & 16 Vict. c. 85, s. 22). Burial Boards are incorporated with perpetual succession and must have a common seal (s. 24).

*Provision of New Grounds.*—The Burial Board when constituted must proceed to provide a new Burial Ground, either within or without the parish (15 & 16 Vict. c. 85, s. 25). No Ground provided under these Acts can be used for Burials within one hundred yards of any dwelling-house without the consent in writing of the owner, lessee, and occupier of such dwelling-house (ib.; 17 & 18 Vict. c. 87, s. 12; 18 & 19 Vict. c. 128, s. 9). Part of such new Burial Ground is to be consecrated, and part unconsecrated (16 & 17 Vict. c. 134, s. 7); but on the unanimous resolution of the Vestry, any new burial ground may be conveyed and settled in like manner as the old Burial Ground or Churchyard, the whole to be consecrated; and if within ten years afterwards the Vestry should so determine, an unconsecrated ground may be provided separately (18 & 19 Vict. c. 128, s. 10). Burial Boards may provide more than one Burial Ground (20 & 21 Vict. c. 81, s. 3); may purchase any Burial Ground provided for a parish under the Church Building Acts (s. 7); and may, in certain cases, purchase Cemeteries which have been closed (s. 26). Burial Boards may purchase land for a Burial Ground (15 & 16 Vict.

discharge same (s. 78); interest to be paid half-yearly unless otherwise provided (s. 79); money may be borrowed at a lower rate of interest to pay off mortgages at a higher rate (s. 80); time of repayment (at the office of the Commissioners) may be inserted in the deed (s. 81); if no time fixed, payment may be demanded after expiration of twelve months on giving six months' notice; in like manner, Commissioners may pay off mortgage on giving like notice (s. 82); interest to cease after expiration of notice unless default be made by Commissioners (s. 83), who shall set apart annually out of the rates the prescribed part as a sinking fund to be invested in Government securities until sufficient to pay off mortgage (s. 84); if more than one mortgage, Commissioners shall decide by lot the order in which such shall be paid off after six months' notice, signed by their clerk, to the mortgagee (s. 85); books of Commissioners shall be open at all reasonable times to inspection of mortgagees, with liberty to take extracts (s. 88).

c. 85, s. 26), for which purpose the Lands Clauses Act is incorporated (s. 27) (*a*), and reconvey (s. 28), or let (18 & 19 Vict. c. 128, s. 17) lands not wanted. And may appropriate, with the approval of the vestry, parish lands (15 & 16 Vict. c. 85, s. 29) (*b*). The Burial Board must lay out the Ground to the

(*a*) See note, p. 118.

(*b*) Any application to the Court under these Acts must have the sanction of the Charity Commissioners (*Ex parte the Watford Burial Board*, 2 Jur. N.S. 1045).

The Egham Burial Board reported to the Vestry on the site for the new burial ground, stating that the choice lay between two pieces of land, one the estimated cost of which was 450*l.*; and the other, at Sandhill, belonging to the parish, which would cost them nothing. In fact this land was held for the benefit of some of the poor only in the parish, and therefore not strictly parish land. The Vestry approved of the Sandhill site, and it then came to the Court to say upon what terms and conditions the sale should be made. The Vice-Chancellor decided that some price must be given for the Sandhill land, and directed that the opinion of the Vestry should be taken in that view. Accordingly, another Vestry was held, when a resolution was passed by a majority of twenty-two votes, "that this meeting is of opinion that the site now proposed to be converted into a burying ground, being surrounded by houses and cottages, is not a fit place for that purpose." The Burial Board now presented a petition to have the necessary terms and conditions determined for carrying out the appropriation of the Sandhill site. Sir W. P. Wood, V.-C.: "I cannot make any order on this petition. Here are lands which the Burial Board wish to appropriate to the purposes of a cemetery; but being held upon special trusts, not for the benefit of the parish generally, they can only be dealt with under the direction of this Court, as to price, the terms, conditions, &c. Some price must be paid and appropriated to the special use upon which the premises are now held, not being general parish property. The only case in which the question of price could be deemed not to be necessarily one of the terms and conditions so to be settled by the Court would be in case the lands taken by the Burial Board were held upon trusts for the parish generally, and where, therefore, the trust moneys, if any, would be held on the same trusts as the land. The formal consent of the Vestry was one of the things necessary to be produced before me. Now, the consent which was produced was contained in a resolution of the Vestry, taken at a meeting called to consider the report of the Board. That report stated, incorrectly, that the Sandhill premises could be procured gratis. It is alleged that one of the members of the Board contradicted that at the meeting. But the meeting may well be supposed to have paid little attention to this suggestion, and to have regarded only the report which they were summoned to consider. No separate verbal statement of that sort by any individual member of the Board could or ought to have received any weight. Can I say that the assent of the Vestry under such circumstances is to be held binding? I thought there must be an assent such as the Act contemplated, given on a correct knowledge of the

satisfaction of the Bishop previous to consecration (15 & 16 Vict. c. 85, s. 30); and it is not necessary to divide the consecrated from the unconsecrated portion by a wall, but to have boundary marks only (20 & 21 Vict. c. 81, s. 11). In case the Bishop decline to consecrate, the Burial Board may appeal to the Archbishop (s. 12). Chapels may be built (15 & 16 Vict. c. 85, s. 30). The division of the Ground into consecrated and unconsecrated portions—and the plans for chapels to be approved by the Secretary of State (16 & 17 Vict. c. 134, s. 7; 18 & 19 Vict. c. 128, s. 14). The expenditure to be approved by the Vestry, or in default by the Secretary of State (18 & 19 Vict. c. 128, s. 6). Burial Boards having Burial Grounds adjoining, may contract with each other for the use of chapels in common (s. 16). They may enter into contracts for works under certain conditions (15 & 16 Vict. c. 85, s. 31). The new Burial Ground, when consecrated, will be the Burial Ground of the parish, in which all parties have the same rights as in the old ground (15 & 16 Vict. c. 85, s. 32). When the Secretary of State has certified that the necessary provisions have been complied with, the Incumbent may bury prior to consecration (20 & 21 Vict. c. 81, s. 13). The Burial Board may sell rights of burial in vaults, and of erecting monuments, &c., reserving such fees to the Incumbent, in lieu of fees to which he would be entitled in the Burial Ground of his parish, as are fixed by the Vestry, with the approval of the Bishop, or as he would have been entitled to by law should no such settlement be made (15 & 16 Vict. c. 85, s. 33) (*a*). Burial Boards are to

circumstances. As soon as the opinion of the Vestry comes to be taken upon the altered statement of the facts, they come to an entirely contrary opinion. I do not see that I have any authority to make any order." Petition dismissed. (*In re Egham Burial Board*, 3 Jur. N. S. 957).

(*a*) Parochial mortuary fees are usually such as have become established by custom, which, by the Ecclesiastical Law, requires a usage of forty years to be proved. The usual parson's fee for breaking the soil is 3*s*. 4*d*., and the same in the chancel, 6*s*. 8*d*. (Degge, 146). These fees, however, as well as for the erection of monuments, are varied by custom, or by statute, and sometimes are payable to the churchwardens (*Andrews* v. *Cawthorn*, Willes, 536; 2 Show. 184; *Anderson* v. *Walker*, 3 Salk. 86; *Littlewood* v. *Williams*, 6

fix such other fees for interments, &c., as may be approved by the Secretary of State (ib. s. 34; 18 & 19 Vict. c. 128, s. 7). Arrangements between the Incumbents of parishes and districts

Taunt. 277; *Bardin* v. *Calcott*, 1 Hagg. 14). If there be no custom the parson may demand a reasonable fee for the erection of a monument (1 Burn's E. L. 273). But a custom to take burial fees in respect of all persons dying in the parish is illegal (*Topsall* v. *Ferrers*, 1 Burn's E. L. 268). An incumbent may be entitled to burial fees in respect of any person who was a *communicant* of the parish church, wheresoever the corpse be buried (*Ib.*); although a fee is not due to a parson for the burial of a mere parishioner which does not take place within his parish: the general rule is, that if no service be performed, there shall be no fee (1 Lee's Ec. Ca. 395). By 59 Geo. 3, c. 134, s. 11, the Commissioners are empowered, with consent of Vestry and of the Bishop, to fix any table of fees for any parish. By the Common law the churchyard is the common burial place for all persons dying within the parish not within certain exclusions of the Ecclesiastical Laws; every person is entitled to be buried therein without charge for breaking the soil (Degge, p. 1, c. 12); and by canon 68, no minister shall refuse or delay to bury any corpse, convenient warning being given him thereof (*R.* v. *Stewart*, 4 P. & D. 889; 12 Ad. & Ell. 773 *S. C.*). The Rubric, confirmed by 13 & 14 Car. 2, c. 4, forbids the use of the customary office on unbaptised persons; but a clergyman cannot refuse to bury the child of a dissenter (*Kempe* v. *Wickes*, 3 Phil. 264); nor the body of a person baptised with water by a layman, and in the name of the Holy Trinity (*Escott* v. *Martin*, 6 Jur. 765); though it is in his discretion whether or not the body be carried into the church (1 Burn's E. L. 267). A clergyman having due notice of such a death, and refusing to perform the office, was suspended three months (*Martin* v. *Escott*, 2 Curt. 692). Persons *felo de se* are excluded from Christian burial; but by 4 Geo. 4, c. 52, the coroner shall direct such remains to be privately placed in the parish churchyard, between nine and twelve o'clock at night, within twenty-four hours after the inquisition; and as to the propriety of the verdict the minister cannot inquire (*Cooper* v. *Dodd*, 2 Robert, 270). A clergyman cannot be compelled to bury the corpse of any person in a particular vault or part of the churchyard (*Ex parte Blackmore*, 1 B. & Adol. 122). He has a discretion on the subject. Burial in an unusual manner cannot be enforced, *e. g.*, in iron coffins (*R.* v. *Coleridge*, 2 B. & A. 806); and when such are received, an increased rate for longer occupation of the ground may be charged (*S. C.*, 2 Hagg. 333). A custom that every parishioner has a right to bury his dead relations as near his ancestors as possible in a particular part of the churchyard cannot be maintained (*Fryer* v. *Johnson*, 2 Wils. 28). The accustomed fees for burials are payable, although, if denied, the clergyman must still perform the office of burial (*Gilbert* v. *Buzzard*, 2 Hagg. 355). The burial of persons dying out of the parish (except in the case of travellers having a family burying-place) must have the concurrence of the churchwardens and the incumbent (*Harrow Churchwardens*, 1 Burn's E. L. 258). No person, unless he be duly authorised, can be permitted to perform service on consecrated ground (*Johnson* v. *Friend*, 6 Jur. N.S. 280). In the case of *Nevill* v. *Baker*

(15 & 16 Vict. c. 85, s. 35) (*a*). Churchwardens' rights reserved (s. 36). Fees in unconsecrated portion to be identical with those in consecrated, less such fees as are received for the Incumbent, &c. (20 & 21 Vict. c. 81, s. 17). Vestries may, with approval of the Bishop, revise the fees payable to Incumbents, Clerks, and Sextons, or substitute fixed annual payments (15 & 16 Vict. c. 85, s. 37). The general management of the Burial

(Arches Court, April, 1862, not reported) it was stated *per curiam* that whether a clergyman can be bound to perform service (the custom being proved) in unconsecrated ground, might be a question of some difficulty, but the onus of proof lies with those who deny the fact of consecration.

(*a*) By Lord Blandford's Act (19 & 20 Vict. c. 104), Commissioners may, on application of incumbent and with consent of Bishop, authorise solemnisation of burials, &c., in district parishes, the fees to be paid to the incumbent (s. 11); and in every case where fees are reserved to incumbent of original parish, same shall be accounted for every three months; after first avoidance of original incumbency such fees shall belong to the district incumbent (s. 12). Every parish created thereunder, or under Sir Robert Peel's Act, 6 & 7 Vict. c. 37, and 7 & 8 Vict. c. 94, shall be held to be an ecclesiastical district for the purposes of the Burial Acts. Where a Local Cemetery Act provided that fees should be paid to the incumbent of the parish, or other ecclesiastical district, &c., it was held that burial fees, in respect of persons dying within a district created after the passing of the Local Act, though the Order in Council was silent as to burials, were payable to the incumbent of such district, and not to the incumbent of the mother parish (*Vaughan* v. *South Metropolitan Cemetery Company*, 1 Johns. & H. 256).

All Acts, laws, and customs shall apply in the district parishes formed under the Act 59 Geo. 3, c. 134, in the same manner as if the same had been ancient and distinct parishes (s. 17). But said Commissioners may direct that all or any of the fees, in case of division of any parish into district parishes, shall continue to belong to the incumbent of the original parish church (3 Geo. 4, c. 72, s. 12). Similar provisions for additional churches without division of parishes by 1 & 2 Will. 4, c. 38, s. 14. If districts subsequently assigned to such churches,—Commissioners with consent of Bishop, or Bishop alone, may apportion fees after next avoidance of the parish church to incumbents of district churches (3 & 4 Vict. c. 60, s. 18). By 8 & 9 Vict. c. 70, s. 10, fees in church of any consolidated chapelry formed as therein mentioned, to belong to incumbent thereof after next avoidance of incumbency of original parish church. By the 14 & 15 Vict. c. 97, ss. 2, 3, 4, compensation may be made by Commissioners to incumbents of original parishes for loss of fees by reason of their transfer to incumbents of district chapelries, consolidated chapelries of churches endowed under 1 & 2 Will. 4, c. 38: and after such compensation, or where no reservation of fees was made, all such fees shall belong to the incumbents of such district chapelries, &c. (14 & 15 Vict. c. 97. ss. 5, 6).

Ground is vested in the Burial Board (s. 38). Arrangements between incumbents of two or more parishes may be made, and confirmed by the Bishop (s. 39) (*a*). The compensation fee to

(*a*) In *Hornby* v. *Toxteth Park Burial Board*, it was held that a district being part of a parish, but having separate overseers, and separately maintaining its own poor, is a "parish" within the meaning of the Burial Acts. Neither the incumbent of an ancient parish, not having previously received fees in respect of burials in an ecclesiastical district carved out of the parish, nor the incumbent of a church within the district, having no burial ground in which the inhabitants thereof have a right to be interred, can claim fees in a cemetery established for such district under the Burial Acts. Sir J. Romilly, M.R., said: "The bill prays a declaration that the plaintiffs are alone entitled to perform the burial service in the consecrated portions of Toxteth Park Cemetery, and to receive fees for so doing. On looking into the Burial Acts, it appeared to the plaintiffs that the incumbent of Toxteth Park was entitled to receive the burial fees. Each of the plaintiffs seems to have claimed to fill that character. It is admitted that Toxteth Park is a place having separate overseers of the poor, and that it separately maintains its own poor; and that it is not in that respect mixed up with any other place, or with the rest of the parish of Walton-on-the-Hill. It follows, therefore, although, according to ancient boundaries, Toxteth Park is, and always has been, a portion of the parish of Walton-on-the-Hill, still that within the meaning of this Act Toxteth Park is to be regarded as a distinct and separate parish. The vicar of Walton cannot, in that character, claim these fees in respect of the burial of persons dying within Toxteth Park, because, in this respect, as I have already observed, it is, for the purpose of this Act, a distinct parish from Walton. For the same reason I am therefore of opinion that the first plaintiff on the record, who is such vicar, cannot, upon the facts established before me, be considered to be the incumbent of Toxteth Park within the meaning of this Act, and for the purposes of it. The next plaintiff on the record is the incumbent of St. James's Church, which is situate within the district of Toxteth Park. This is established under statute 14 Geo. 3, c. 94. No district is expressly defined as belonging to this church or chapelry; the pews and the right of sepulture are to be sold indiscriminately to all who think fit to buy, whether residing in Toxteth Park or out of it. It is not a burial ground attached to Toxteth Park, or, indeed, to any defined place. It cannot be treated as the burial ground of Toxteth Park, for it is not one in which any inhabitant of Toxteth Park has any right of being buried. It is clear that the incumbent of this church cannot claim to be the incumbent of Toxteth Park. At the utmost he is only incumbent of a portion of Toxteth Park set apart for ecclesiastical purposes. There is a burial ground attached to the church of St. James, but it is one in which the right of interment can only be obtained by purchase. It is in no sense the burial ground of the ecclesiastical district defined in 1844, in which the inhabitants dying within that district have any right to be buried. I am of opinion, therefore, that the second plaintiff on this record is not entitled to maintain this suit. The next plaintiff on the record is the incumbent of the church

the Incumbent for Pauper Burial in Cemeteries is not to exceed 1*s.* or the sum received in his parish ground, and in no case

of St. Michael in Toxteth Park. This church was established by a Local Act of the 55 Geo. 3 (1815), c. 70. The 16th section provides that one-fourth of the cemetery shall be reserved for the burial of the poor who died in Toxteth Park, within the circuit of one mile from the church. Except for this 16th section, the church of St. Michael would not, in substance, differ from the church of St. James beyond this, that it has not hitherto been erected into an ecclesiastical district by any Order in Council, as has been the case with the church of St. James. It is, therefore, except as to one-fourth, a private burial ground, the profits of which belong to private individuals, which is in no degree interfered with or discontinued by reason of the establishment of the cemetery in Toxteth Park, and to which the observations I have already made relative to the cemetery of St. James equally apply. The last plaintiff on the record is the incumbent of St. John the Baptist Church in Toxteth Park. This district was created by an Order in Council of 23rd September, 1837, under the authority of the Church Building Acts, 58 Geo. 3, c. 45, and 59 Geo. 3, c. 134, which enable the Ecclesiastical Commissioners to divide any parish into two or more districts for ecclesiastical purposes. The district is accordingly defined by the Order in Council as a portion of Toxteth Park, and the district is named 'the District of St. John the Baptist, Toxteth Park.' This church has no burial ground attached to it, the grant of the land having provided, as a condition, against the exercise of any such right, and accordingly the Order in Council gives no such right. In truth, however, except that this church was erected by the Ecclesiastical Commissioners, and except that private burial grounds are attached to St. James' and St. Michael's, there is no distinction between any of these churches, or the rights of the incumbents of them, so far as regards the question before us. They are all in the nature of chapels of ease to the parish of Walton. Assuming that parish to include the township of Toxteth Park, they confer no rights on the incumbents beyond those specified in the provisions contained in the instruments creating them. The fact of the parochiality, or extra-parochiality, of Toxteth Park is immaterial for the present purpose. The statute makes that district a parish, and a parish distinct from the parish of Walton. Previously to, and at the time of, the establishment of this cemetery, although there were several persons who were incumbents of churches within the district of Toxteth Park, there was no one person, or combination of persons, who filled the character of incumbent of Toxteth Park as defined by the Act. The incumbents of the churches within Toxteth Park, even if they were entitled to be treated as incumbents of ecclesiastical divisions of Toxteth Park, have no burial grounds attached to such divisions, in any one of which it can be said that the remains of persons dying within Toxteth Park would have been buried if it had not been for the existence of the Toxteth Park Cemetery; and, without this being established, the incumbents of such churches can have no claim to participate, as of right, in the fees received for the performance of the religious service on the interment of bodies in Toxteth Park Cemetery." (31 L. J. Ch. 643; 8 Jur. N. S. 531.)

to exceed 2*s.* 6*d.* (s. 49). And the same limit applies to Burials at the expense of Hospitals (16 & 17 Vict. c. 134, s. 7). Incumbent's compensation fees are payable to Churchwardens previously entitled to receive the same (15 & 16 Vict. c. 85, s. 50). Registers are to be duly kept (*a*)—entries in which to be evidence. Searches may be made, and extracts taken (16 & 17 Vict. c. 134, s. 8). Persons destroying any register, or making false entries therein, are guilty of felony (20 & 21 Vict. c. 81, s. 15) (*b*). Land purchased and used for a new Burial Ground is not to be assessed to any rate at a higher value than that at which it was assessed prior to such purchase (18 & 19 Vict. c. 128, s. 15). Persons committing any wilful damage or nuisance in the Burial Grounds provided by virtue of these Acts, are liable to a penalty of 5*l.* (15 & 16 Vict. c. 85, s. 40; 10 & 11 Vict. c. 65) (*c*). Burial Boards may make arrange-

(*a*) By the Burials Registration Act (27 & 28 Vict. c. 97) it is provided that all burials in any burial ground, not previously by law required to be registered, shall be registered (s. 1) in manner prescribed. Penalty for neglect not exceeding 5*l.* (s. 4).

(*b*) By the Forgery Consolidation Act, 24 & 25 Vict. c. 98, it is enacted, *inter alia*, that whosoever shall unlawfully destroy, deface, or injure, any register of burials required to be kept in England or Ireland, or forge or fraudulently alter any entry in any such register, or any certified copy thereof, or shall knowingly insert any false entry therein, or give a false certificate, or certify any copy knowing it to be false, or forge or counterfeit the seal of any Burial Board, or shall offer, utter, dispose of, or put off any such entry, copy, certificate, or seal, knowing the same to be false, forged, or altered, shall be guilty of felony, and liable, at the discretion of the Court, to penal servitude for life, or not less than three years, or to imprisonment, with or without hard labour, or solitary confinement (not more than one month at any one time, or three months in any one year), not exceeding two years.

(*c*) A penalty not exceeding 5*l.* for any damage or nuisance is imposed by this Act, 10 & 11 Vict. c. 65, ss. 58, 59; and for the recovery of the penalty, clauses 145 to 149 and 151 to 160 of the Railway Clauses Act, 8 & 9 Vict. c. 20, are incorporated, by which it is provided that every penalty may be recovered by summary proceeding before two Justices. Any Justice to issue summons requiring offender to appear to be served personally, or left at usual place of abode; and on proof by one credible witness on oath, conviction may follow to the extent of the penalty incurred, and such costs as Justices shall think fit. In default of payment, warrant of distress may be issued. Offender may be detained until return made to warrant of distress, or held to bail. If no sufficient distress can be had, offender may be committed without

ments for the conveyance of bodies for interment; and they, or the Churchwardens and Overseers, where no Board has been appointed, may provide reception houses for the dead (15 & 16 Vict. c. 85, ss. 41, 42) (*a*). Funerals are exempted from toll (20 & 21 Vict. c. 81, s. 14) (*b*). When the Burial Ground of

bail for any term not exceeding three months. Any surplus after distress and sale to be returned to the party. No distress shall be unlawful for want of form, but any defect to be satisfied by action on the case. Penalties must be sued for within six months. Any damage to be made good, in addition to the penalty to be determined by Justices, and recoverable in like manner. Any witness may be summoned and examined on oath, and on neglect or refusal (reasonable expenses being paid), every such person shall forfeit not exceeding 5*l*. Any officer or agent of the Company (*i. e.*, Burial Board), or person called to his assistance, may seize any offender and convey him before a Justice without warrant. No proceeding to be quashed for want of form. Party may appeal within four months to Quarter Sessions, on giving security and ten days' notice in writing to the party against whom the appeal shall be brought. Court to make reasonable order thereupon. Appeal from any order of any Metropolitan Police Magistrate to be subject to the terms provided in that behalf by 2 & 3 Vict. c. 71. Persons giving false evidence liable to the penalties of perjury.

Any person guilty of riotous, violent, or indecent behaviour in any churchyard or burial ground, or who shall disturb any preacher therein shall be liable to penalty of not more than 5*l*. or imprisonment not exceeding two months (23 & 24 Vict. c. 32, s. 2).

(*a*) By the City Sewers Act (see note, p. 37), power is given to the Commissioners to provide reception houses for the dead within the City of London (s. 89), to which the Officer of Health may require bodies to be removed previous to interment (s. 90). For the regulation of interments (ss. 110—112); and the Amendment Act (14 & 15 Vict. c. xci., ss. 32—36) authorises the appropriation of closed burial grounds for public improvements.

(*b*) If any collector shall demand and take a toll from any person or persons who shall be exempt from the payment thereof, and who shall claim such exemption, every such toll-collector shall forfeit and pay any sum not exceeding 5*l*. for every such offence (4 Geo. 4, c. 95, s. 30); penalties recoverable before any Justice by warrant of distress, one moiety to be paid to informer and the other to the trustees of the road, and in default offender may be committed for any time not exceeding three calendar months (3 Geo. 4, c. 126, s. 141). Appeal against conviction for any sum exceeding 40*s*., six days' notice being given, may be had to the next General or Quarter Sessions, whose decision shall be final (4 Geo. 4, c. 95, s. 87).

Clergymen going to or returning from parochial duty within their parishes are also exempt from toll, and this latter exemption extends to the cases of clergymen who live out of the parishes in which they do duty regularly, and

any parish is closed or overcrowded, poor persons may, at the discretion of the Guardians or Overseers, be buried in some neighbouring parish (18 & 19 Vict. c. 79, s. 1). The Secretary of State may direct the inspection of, and make regulations to be observed in, any Burial Ground (15 & 16 Vict. c. 85, s. 44), parochial or non-parochial, provided under these Acts; any breach of which will render the offender liable to a penalty of 10*l.* (18 & 19 Vict. c. 128, s. 8) (*a*). Bodies are not to be

whether the turnpike gate be in either parish (*Temple* v. *Dickinson*, 21 L. J. M. C. 10 Q. B.; 5 Jur. N. S. 363).

(*a*) Under this provision, the following regulations for burial grounds provided under the Burial Acts, have been issued by the Secretary of State:

[July, 1857, in lieu of those previously in force.]

1. "The burial ground shall be effectually fenced, and, if necessary, underdrained to such a depth as will prevent water remaining in any grave or vault."

2. "The area to be used for graves shall be divided into grave-spaces, to be designated by convenient marks, so that the position of each may be readily determined, and a corresponding plan kept on which each grave-space shall be shown."

[It is apprehended that this purpose may be answered by placing marks along the boundaries of the cemetery; *e. g.*, numerals at the sides, and letters at the ends.]

3. "The grave-spaces for the burial of persons above twelve years of age shall be at least nine feet by four feet; and those for the burial of children under twelve years of age, six feet by three feet; or, if preferred, half the measurement of the adult grave-space, namely, four and a half feet by four feet."

[Where grounds had been already laid out with grave-spaces of the sizes prescribed in the former regulations it may have been inconvenient to alter them; but newly formed grave-spaces should not be less than the dimensions here given.]

4. "A register of graves shall be kept, in which the name, age, and date of burial in each shall be duly registered."

[This will be distinct from the register of burials, and will simply contain a record of the contents of each grave-space as it is used.]

5. "No body shall be buried in any vault or walled grave, unless the coffin be separately entombed in an air-tight manner; that is, by properly cemented stone or brick work, which shall never be disturbed."

[In vault-burial metallic coffins have been much used, but this practice is dangerous, inasmuch as the gases generated are liable to burst such coffins; they are, at the same time, more expensive than separate entombment with wood coffins, by which method the noxious gases are allowed imperceptibly to escape.]

6. "One body only shall be buried in a grave at one time, unless the bodies be those of members of the same family."

removed after interment (except by faculty) without license from the Secretary of State (20 & 21 Vict. c. 81, s. 25) (*a*). The several Acts are to be construed as one Act.

7. "No unwalled grave shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of earth not less than one foot thick shall be left undisturbed above the previously buried coffin; but if, on re-opening any grave, the soil be found to be offensive, such soil shall not be disturbed, and in no case shall human remains be removed from the grave."

[It will be seen that the grave is not required to be purchased, as heretofore, so that the members of a poor family may be buried together, as well as those of the rich.]

8. "No coffin shall be buried in any unwalled grave within four feet of the ordinary level of the ground, unless it contains the body of a child under twelve years, when it shall not be less than three feet below that level."

[Measuring from the top of the coffin to the natural surface of the cemetery.]

(*a*) No license from the Secretary of State will be necessary for removal where a faculty is granted. Such license to remove a body from one consecrated place of burial to another without a faculty might exempt parties acting under it from penal consequences in a court of law; but it is presumed the ordinary might enforce his ecclesiastical rights as before (see Gibson, 454). The Coroner may order a body to be taken up for the purpose of inquiry (Jer. Cor. 28); but to disinter bodies for dissection is indictable (*R.* v. *Gilles*, R. & R. 366). The powers conferred under a faculty for the removal of bodies must not be exceeded; the Court will issue a monition for the re-interment of remains so disinterred without proper authority (*St. Pancras Vestry* v. *St. Martin's*, 6 Jur. N. S. 540).

A. was indicted for unlawfully breaking and entering a certain burial ground belonging to a Dissenting Meeting House, and digging open his mother's grave and taking away the body. The evidence proved, that the defendant's family had belonged to a congregation of Dissenters, and his mother, with some others of his relatives, had been buried in one grave in the burying ground of that congregation, with the consent of those who were interested. That the father of the defendant having recently died, the defendant prevailed on the wife of the person to whom the key of the burying ground was intrusted, to allow him to cause the grave above mentioned to be opened, under the pretext that he wished to bury his father in the same grave, and in order thereto to examine whether the size of the grave would admit his father's coffin. That he caused the coffins of his step-mother and two children to be taken out, and so came to the coffin of his mother, which was under them, and was much decomposed; and that he caused the remains of this coffin, with the corpse therein, to be placed in a shell and carried to a cart near the burying ground, and driven therein some miles away towards a churchyard, where he intended to bury his father's corpse with the remains of his mother. The person having the keys of the ground was

THE DISEASES PREVENTION ACT.

When any Order in Council is made putting in force the provisions of the Act for the better Prevention of Diseases, the Privy Council may issue regulations for the speedy interment of the dead (18 & 19 Vict. c. 116, s. 6).

induced to admit the defendant into the ground and to the grave by reason of the pretext that the defendant intended to bury his father there; and the jury found that this was only a pretext, and that his real intention from the beginning was to remove his mother's corpse. But the defendant acted throughout without intentional disrespect to any one, being actuated by motives of affection to his mother and of religious duty. The jury convicted upon the evidence, and Mr. Justice Erle reserved for the decision of the Court the question whether the conviction could be sustained. The case was considered by Pollock, C.B., Erle, J., Willes, J., Bramwell, B., and Watson, B.; and the judgment delivered by Erle, J.: "We are of opinion that the conviction ought to be affirmed. The defendant was wrongfully in the burial ground, and wrongfully opened the grave, and took out several corpses, and carried away one. We say he did this wrongfully, that is to say, by trespass; for the license which he obtained to enter and open, from the person who had the care of the place, was not given or intended for the purpose to which he applied it, and was, as to that purpose, no license at all. The evidence for the prosecution proved the misdemeanour, unless there was a defence. We have considered the grounds relied on in that behalf, and although we are fully sensible of the estimable motives on which the defendant acted, namely filial affection and religious duty, still neither authority nor principle would justify the position that the wrongful removal of a corpse was no misdemeanour if the motive for the act deserved approbation. A purpose of anatomical science would fall within that category. Neither does our law recognise the right of any one child to the corpse of its parent, as claimed by the defendant. Our law recognises no property in a corpse, and the protection of the grave at Common Law, as contra-distinguished from ecclesiastical protection to consecrated ground, depends upon this form of indictment; and there is no authority for saying that relationship will justify the taking a corpse away from the grave where it has been buried. We have been unwilling to affirm the conviction on account of our respect for the motives of the defendant, but we have felt it our duty to do so rather than lay down a rule which might lessen the only protection the law affords in respect of the burials of Dissenters." (*R.* v. *Sharpe*, 26 L. J. M. C. 47; 3 Jur. N. S. 192; 1 D. & B., C. C. R., 160).

# PROCEEDINGS OF LOCAL AUTHORITIES.

## LOCAL BOARDS OF HEALTH.

Under the Public Health Act (11 & 12 Vict. c. 63), the Local Board of Health in every non-corporate District, are required to hold annual and monthly meetings, and such others as may be necessary; and may make Bye-laws with respect to the regulation of meetings and the transaction of business, provided that at least one-third of the members must be present to transact any business; a Chairman is to be appointed for one year, who has a casting vote (s. 34). The Local Board must provide offices and a seal, and any document signed by five members and sealed with such seal, will be received as evidence (*a*) (s. 35). Committees may be appointed, whose acts must be approved by the Board (s. 36). The Local Board may appoint a Surveyor, Inspector of Nuisances, Clerk, Treasurer, and other officers, removable at pleasure, and make Bye-laws for the regulation of their duties (*b*); and pay out of the rates reasonable salaries (*c*),

(*a*) Where a rate Collector appointed by a minute of the Board of Guardians sued them for unpaid poundage, it was held that the action was not maintainable, the appointment not having been under seal—he might have deducted his poundage when paying over the money, or might obtain a *mandamus* for a rate on the particular parish, but the Guardians had no general fund out of which to pay the demand (*Smart* v. *West Ham*, 24 L. J. C. P. 201; see also *R.* v. *Greene*, 17 Q. B. 793).

(*b*) See suggestions as to duties of Officers, p. 629-650.

(*c*) Commissioners elected under statute are to be treated as a fluctuating body, in the nature of a Corporation to be represented by their clerk (*Kendall* v. *King*, 17 C. B. 483).

Where Commissioners annually elected under a Local Act, having power to levy rates, and to appoint and pay officers out of such rates, had appointed a clerk for one year: it was held, that he might maintain an action for his salary against the clerk in a subsequent year (*Hall* v. *Taylor*, 1 E. B. & E. 107; 27 L. J. Q. B. 311; 22 Jur. 877).

But a contract or debt will not arise as against succeeding Commissioners themselves from their predecessors having appointed an officer at a salary, under a power given them by statute (*Bogg* v. *Pearce*, 10 C. B. 534).

Where the executors of a clerk to Commissioners under a Local Act, sued

but no person by himself or his servants, nor any two partners, &c., can hold both the offices of Clerk and Treasurer, under a penalty of 100*l.* (s. 37). No officer is to be interested in any contract or bargain made with the Board, or, under colour of his office, accept any fee other than his salary, under penalty of 50*l.*, and being thereby declared incapable of holding his office (s. 37). Any officer entrusted with money must give security, and any money collected is to be paid to the Treasurer within seven days. Any Collector is to deliver a list of arrears, and also accounts of receipts and payments with vouchers; and failing to account or deliver up property within five days, when required, he may be imprisoned (*a*) without bail, and be liable to summary distress, or further imprisonment in default; and if complainant believe such defaulter is intending to abscond, he may be apprehended until bail provided (s. 39). An Officer of Health may also be appointed by the Local Board (s. 40).

*Incorporated Powers.*—The better to provide for the efficient execution of Sanitary Works in Districts to which the Public Health and Local Government Acts are applied, the provisions of the following general statutes are incorporated therewith, viz.: The Towns Police Clauses Act (10 & 11 Vict. c. 89), with respect to obstructions &c. in streets, fires, places of resort, hackney-carriages, and bathing. [See "Management of Streets," &c.'; "Safety from Fire," &c.] The Towns Improvement Clauses Act (10 & 11 Vict. c. 34), with respect to naming and numbering streets; improving lines of streets; dangerous buildings; precautions during construction and re-

them for salary due to the testator: it was held, that a plea that they had no funds was bad, and the plaintiffs were entitled to judgment—though it might be doubtful whether execution could issue (*Bush* v. *Martin*, 3 New Reports, 90).

A bond was given for the performance of duties, and the salary was subsequently increased: held, that such alteration amounted to a new appointment, and that the sureties were no longer liable (*Holland* v. *Lee*, 18 J. P. 201).

(*a*) This, in case of contumacy, might be for life, but as to the discretion of Justices in such a case, see *R.* v. *Justices of Norfolk*, 4 B. & Ald. 238.

pair of sewers, streets, and houses [see "House Drainage," &c.]; water-supply; prevention of smoke, with certain qualifications [see "Prevention of Smoke"; slaughter-houses; and clocks (21 & 22 Vict. c. 98, ss. 44, 45). In any such District where the Watching and Lighting Act (3 & 4 Will. 4, c. 90) has previously been adopted (*a*), that Act is superseded, and the property vested in the Inspectors becomes vested in the Local Board (s. 46). The Local Board may contract with any person for the supply of gas, or other means of lighting streets, &c., and provide lamps, &c., out of the rates levied under the Public Health Act (12 & 13 Vict. c. 94, s. 8). Where the Baths and Washhouses Act (9 & 10 Vict. c. 74), is adopted, the Board may, at the option of the Vestry, be the Commissioners thereunder (21 & 22 Vict. c. 98, s. 47). [See "Baths and Washhouses."]

*Markets and Fairs.*—The Board, with the consent of the owners and ratepayers, or in Boroughs two-thirds of the members, may provide a Market-place and house, with approaches thereto, places for weighing carts, and all things necessary for

(*a*) By the Watching and Lighting Act, 3 & 4 Will. 4, c. 90, on the requisition of three ratepayers, a meeting may be called by the churchwardens of any parish, at which a majority of two-thirds may determine that the Act shall be adopted, and inspectors appointed, with power to call for such annual sum as may be fixed by the ratepayers (ss. 5 to 9); the Act may be abandoned at any time after the expiration of three years from the adoption thereof (s. 15). The inspectors are to meet monthly (s. 22), and to appoint officers (s. 24). Their proceedings and accounts are to be open to inspection (ss. 30, 31). The overseers are empowered to make and collect rates for the purposes of the Act (s. 33). Watchmen are to be appointed, with the powers of constables (s. 42). Fire-engines may be provided (s. 44). Lamps erected (s. 45). Gas-pipes laid down (s. 46), which shall be four feet at least from any water-pipe (s. 51). Provisions for preventing contamination of water (ss. 52, 53). Power to contract for works (ss. 57, 58). Inspectors may purchase or rent ground (s. 59). Property in lamps, &c., vested in them (s. 60). Regulation of proceedings, &c. (ss. 61—78).

By 5 & 6 Will. 4, c. 76, s. 88, the Council of any borough may, after twenty-one days notice, take upon themselves the powers given to the inspectors under the Watching and Lighting Act, so far as relates to the lighting the whole or part of any borough not within the provisions of a Local Act, and have the same powers as belong to such inspectors, and as to levying rates for the purposes of such lighting, not exceeding sixpence in the pound in any one year; provided, that the inhabitants of such part may at any time determine that such provisions shall cease to be acted upon.

the use thereof (s. 50); and purchase or lease lands, rights, and tolls for such purposes, and take stallages, rents, and tolls for the use thereof; but so as not to interfere, without consent, with any previously acquired rights of any person or company. And there are incorporated with respect to the holding and protection of such market or fair, the weighing of goods, stallages, rents, and tolls, and Bye-laws, the provisions of the Markets and Fairs Act; under which Act the Board must give public notice of the time when the market or fair will be opened (10 Vict. c. 14, s. 12). After the time specified no person other than a licensed hawker is to sell, except in his own shop, articles within the District in respect of which Tolls are authorised to be taken in the market (*a*), under a penalty

(*a*) The toll taken in a market is, on the space occupied, not the article sold. For meaning of prescribed limits (s. 13 of the Markets Act), see *Caswell* v. *Cook*, 11 C. B. N. S. 637; 31 L. J. M. C. 185, where it was held, that these words did not mean the limits of the market itself. An auctioneer, though licensed, selling horses in a yard belonging to another person within the limits of the district, was held to be liable under this section (*Llandaff, &c.* v. *Lyndon*, 8 C. B. N. S. 515; 6 Jur. N. S. 1344). Any shop is exempted (*Wiltshire* v. *Willett*, 11 C. B. N. S. 240; 31 L. J. M. C. 8), but not a boat in a canal (*Wiltshire* v. *Baker*, 11 C. B. N. S. 237; 31 L. J. M. C. 81); nor a mere unsubstantial erection set up to evade the Act (*Pope* v. *Whalley*, 5 New Reports, 322).

To kill animals *not intended to be sold for human food* in any place other than a public slaughterhouse, is not an offence under s. 19 of the Markets and Fairs Clauses Act (*Elias* v. *Nightingale*, 4 Jur. N. S. 166).

Where from time immemorial a market had been held in the High Street of a borough (such market belonging to the Corporation, who were also Lords of the Manor), and the owners and occupiers of the houses had from time immemorial erected on market days stalls opposite their houses, and exposed goods for sale in the market, or let the stalls to others free from any payment for stallage or tolls, although tolls were taken of similar produce exposed elsewhere in the market, and the Corporation removed the market to another place within the borough at some distance from the High Street: it was held, that the owners of the houses were entitled to compensation from the Corporation for the consequent injury to their right. *Per curiam:* The demand for compensation is resisted; first, on the ground that the moving of the market was justifiable, under the Public Health and Local Government Acts; secondly, that there is no legal foundation for any right of the plaintiff, which is interfered with by the removal of the market to its new site. Inasmuch as the power as to providing market places conferred on the Local Board by sec. 50 of the Local Government Act is expressly qualified by the provision that no market shall be established so as to interfere with any rights

not exceeding forty shillings (s. 13). Markets and Fairs to be held as the Board by any Bye-law appoint (s. 14). Penalty not exceeding 5*l.* for exposing unwholesome provisions, which may be seized and carried before a Justice; like penalty for obstructing Inspector (s. 15). Penalty not exceeding forty shillings for obstructing Market Superintendent (s. 16). The Board must provide proper houses, scales, and weights, and persons for weighing goods (s. 21). All goods to be weighed by the seller on request of the purchaser thereof under penalty (s. 22). The Board in like manner must provide machines for weighing loaded carts (s. 24), to be used in manner prescribed (s. 25), under penalty for refusal (s. 26). Penalties for frauds in weighing (ss. 27 to 30). Regulation of tolls to be taken in the market, leviable by distress; in case of dispute, to be settled by a Justice (ss. 31 to 40). The Board must place a list of stallages, tolls, &c., in the market (s. 41). They may make Bye-laws for regulating the use of such market, in all the above-mentioned respects (s. 42), under penalties (s. 43), such Bye-laws to be approved by the Secretary of State (s. 44), public notice of which is to be given (s. 45), such Bye-laws are to be open to inspection (s. 46), and published within the district (s. 47), when they will be binding on all parties (s. 48). Production of a printed copy, &c., is to be evidence thereof (s. 49); provided that all tolls to be taken in the

enjoyed by any person without his consent; the two questions may be narrowed to whether the plaintiff has shown that the removal of the market was an unlawful interference with any right then enjoyed by him. It is argued, that the immemorial enjoyment in the present case may well have had a legal origin, on the supposition either that at some former period the then owners of the market granted to the respective owners of the houses abutting on the High Street, and their heirs, as a right annexed to their estate in the houses, that the occupiers thereof might on market days respectively erect stalls in the market street opposite their houses for the exposure of goods free of all tolls and stallage; or that the original grant of the franchise from the Crown to the corporation was expressed to be on the terms or condition that the owners of those houses should enjoy that right. We think these arguments are well founded, and the plaintiff may maintain the action for setting up a new market to the injury of his right in the ancient market (*Ellis* v. *Bridgnorth Corporation*, 2 New Reports, 488).

market be approved by the Secretary of State (21 & 22 Vict. c. 98, s. 50); and the Board may purchase the property, rights, &c., of any market company (s. 53).

*Purchase of Lands.*—In any District to which the Public Health and Local Government Acts are applied, the Local Board may purchase, lease, sell, or exchange, any lands or premises which in any non-corporate District are to be conveyed to such Board in trust, for the purposes of the Act, and held by them as a body corporate (11 & 12 Vict. c. 63, s. 84). The Lands Clauses Consolidation Act is incorporated therewith, except the provisions relating to access to the special Act (*a*). But the Board, before taking land thereunder,

(*a*) The statute thus incorporated having been printed in numerous legal works; (the chief parts of it are contained in "the Laws relating to Burials," by the author; see also Shelford on Railways, Hodges on Railways, Wordsworth on Joint-Stock Companies, Walford on Railways, &c., &c.), it has not been thought necessary to include it in the Appendix to this volume.

The Lands Clauses Consolidation Act here referred to is the 8 & 9 Vict. c. 18, which may be applied to all undertakings authorised by any "special Act" thereafter to be passed, so that the two may be construed together as forming one Act (s. 1). The chief provisions are as follow:—The promoters of the undertaking (*i. e.*, the Local Board) may purchase land by agreement (s. 6); parties under any disability being thereby enabled to convey (s. 7), to enfranchise, or release lands from incumbrances, or apportion incumbrances (s. 8); the purchase-money in such cases to be paid into the Bank (s. 9). Lands in fee simple may be sold on chief rents, but if on any other tenure, consideration money to be in a gross sum (s. 10). The rent to be charged on the rates (s. 11). Municipal Corporations may not convey lands without the approval of the Treasury (s. 15). Notice of intention to take land otherwise than by agreement, must be given to all parties interested, stating particulars (s. 18). To be served on owners and occupiers (s. 19). In case of dispute, claims not exceeding 50*l.* to be settled by two Justices (s. 22). Compensation above that sum may be settled by a Jury, unless the party desire arbitration in manner prescribed (ss. 23—68). Purchase-money payable to parties under disability, amounting to 200*l.* and upwards, to be paid into the Bank in the name of the Accountant-General, to be applied as the Court shall direct (s. 69). In the meantime to be invested (s. 70). If under 200*l.* and exceeding 20*l.*, it may be paid as aforesaid, or to two trustees, to be applied in like manner (s. 71). Sums not exceeding 20*l.* to be paid to parties entitled to rents. All sums exceeding 20*l.* payable under contract with persons not absolutely entitled, to be paid into the Bank (s. 73); to be applied under direction of the Court (s. 74). On payment of the money into the Bank after agreement, owners shall convey, or, in default, a deed-

otherwise than by agreement, must give notice to the persons interested in manner prescribed, and petition the Secretary of State that they may be allowed to take such land, who may direct an inquiry in the District, and by Provisional Order empower the Board to take the same, which Order shall be of no validity until confirmed by Parliament; the expense of such proceedings to be a charge upon the District rates (21 & 22 Vict. c. 98, s. 75). The term "special Act," in the Lands Clauses Act, will mean such confirming Act (24 & 25 Vict. c. 61, s. 18). The Board have the same powers with regard to any lands purchased by them, as under the Local Govern-

poll may be executed by the Local Board (s. 75); and purchase-money deposited (s. 76); and on receipt from the cashier of the Bank and execution of the deed-poll, lands shall vest absolutely, and possession may be taken by the Board (s. 77). Money to be invested as the Court may direct (s. 78); and dividends paid to parties in possession at the time of the purchase (s. 79). Costs (except those arising from neglect of parties entitled) to be paid by the Board (s. 80). Form of conveyance prescribed (s. 81). Costs of same to be borne by the Board (s. 82); to be taxed in case of disagreement (s. 83). The purchase-money is to be paid previous to right of entry, except to survey soil, set out line of works, &c., on giving not less than three or more than fourteen days' notice, and making compensation for damage (s. 84); and except also on deposit by way of security and giving bond (s. 85). Cashier to give receipt (s. 86); and deposit to be applied under direction of the Court (s. 87). In the absence of the Accountant-General, deposit may be paid to cashier of the Bank, to be subsequently placed to his account (s. 88). Boards entering lands without consent prior to payment of purchase-money shall forfeit 10*l.* to the party in possession over and above damage, to be recovered before two Justices, and 25*l.* per day for continuing in unlawful possession after conviction, recoverable with costs in any Superior Court (s. 89). The Board may be put in possession by the Sheriff on becoming entitled to enter (s. 91). Conveyances of copyhold land to be enrolled (s. 95) may be enfranchised (s. 96) by the lord (s. 97). Copyhold rents may be apportioned by two Justices (s. 98). Commonable rights may be compensated (s. 99), and lands conveyed by the lord (s. 100). Commoners to determine their rights by agreement (s. 101). Meeting convened to treat (s. 102) may appoint a committee (s. 103) to agree with the Board (s. 104). In default of such meeting or appointment of committee, surveyor appointed by two Justices to determine such compensation (s. 106). Upon payment or tender of which lands to vest (s. 107). Power to redeem mortgages (ss. 108 to 114), to release rent-charges (ss. 115 to 118), to apportion leases (ss. 119 to 122). Sale of superfluous lands (ss. 127 to 135). Recovery and application of penalties and costs (ss. 136 to 149).

ment Act they have with regard to lands purchased for making or enlarging streets (s. 22).

*Contracts.*—The Board may enter into all necessary Contracts, which, if exceeding 10*l.* value, are to be in writing under seal, &c., an estimate from their Surveyor to be first obtained of the particulars specified (*a*); and if above 100*l.* value, notice to be given, inviting tenders, &c. (11 & 12 Vict. c. 63, s. 85). Such Contracts under any repealed section of the Public Health Act may, notwithstanding, be enforced (*b*) (21 & 22 Vict. c. 98, ss. 9 and 54).

*Bye-laws, &c.*—The Local Board may make Bye-laws, imposing penalties not exceeding 5*l.* for each offence, and not exceeding 40*s.* a day during the continuance thereof; but such

(*a*) Where a Local Board entered into an agreement with a builder to execute sewerage works without a contract under seal, it was held that, whereas the expense must be charged upon the rates, which could not be done unless the terms of the Act were strictly complied with, the Contractor could not recover (*Fremd* v. *Dennett*, 4 C. B. N. S. 576; 4 Jur. N. S. 897; 27 L. J. C. P. 314. Where, however, a Local Board had duly contracted with the person executing the work, though they had neglected to procure an estimate from the surveyor, it was held that they were bound by the terms of their contract, the estimate being directing only, and not a condition precedent as between the Board and the Contractor (*Nowell* v. *Mayor of Worcester*, 9 Exch. 457, 23 L. J. Exch. 139.

Where, in default of the owners, a Local Board had leveled a street by contract under s. 85, but without having obtained an estimate of the annual cost of repair, or any report as to whether it would be most desirable to contract for the work only, or for its execution and maintenance, it was held that they might recover the expenses notwithstanding, inasmuch as the road would not afterwards be maintained out of the rates. Campbell, C. J.: "If the work may be both executed and repaired under the provisions of the Act, there must be an estimate and report on the execution and the repair. In case of a contract for repairing an existing road, an estimate and report relating to executing the work of making that road originally would be absurd, and equally so would be the estimate and report on repair where none can be done." (*Cunningham* v. *Wolverhampton L. B.*, 7 E. & B. 187; 26 L. J. M. C. 33).

In the absence of collusion, where the certificate of their Surveyor—required by the terms of the contract—was refused: held, that the Board were not liable for works alleged to have been completed under such contract (*Clarke* v. *Watson*, 5 New Reports, 283).

(*b*) Where a Local Board had given bad notices, under s. 69 of the Public Health Act, and were therefore unable to collect the money for works which they had executed, it was held that the contractor was entitled to recover against the Board (*Worthington* v. *Ludlow*, 31 L. J. Q. B. 131).

Bye-laws will not be in force until confirmed by the Secretary of State (*a*), after a month's notice in the newspapers; such proposed Bye-laws are to be open to inspection by the ratepayers (11 & 12 Vict. c. 63, s. 115). All Bye-laws must be printed, hung up in the office, and delivered to any ratepayer on his application (s. 116).

*Expenses, Appeal.*—Persons aggrieved by the decision of the Board as to the recovery of expenses in a summary manner, or on declaring such to be Private Improvement Expenses, may appeal to the Secretary of State, who may order compensation (s. 120; and 21 & 22 Vict. c. 98, s. 65). Where expenses have been apportioned as payable by the owner of any premises, the same will be binding, unless such owner dispute the same within three months (Ib. s. 63).

*Arbitration.*—Method of arbitration in cases of dispute, &c., as prescribed (*b*) (11 & 12 Vict. c. 63, ss. 123 to 128). If the amount in dispute be under 20*l.* the question may be determined before two Justices in a summary manner (21 & 22 Vict. c. 98, s. 64). Result of any arbitration to be final, &c. (s. 70).

*Legal Proceedings.*—Penalty for wilful injury to any works, &c., not otherwise provided for, not exceeding 5*l.* (21 & 22 Vict. c. 98, s. 66). All damages, costs or expenses recoverable in a summary manner may be levied by distress under warrant of two Justices (*c*); and any penalty may be recovered in like

(*a*) See note, p. 52, also suggested forms for Bye-laws, p. 612.

(*b*) The appointment of an umpire is valid, though the twenty-one days limited for the award of the arbitrators by s. 125 of the Public Health Act had elapsed. The arbitrator under submission may award costs to be paid by one of the parties (*Holdsworth* v. *Barsham*, 31 L. J. Q. B. 145). An umpire, before acting, may extend the time for making his award, but where he had failed to do so, an award made more than twenty-one days after his appointment was set aside (*Kellett* v. *Tranmere L. B.*, 5 New Reports, 138).

In case all liability be disputed by the Local Board, the claimant cannot proceed to arbitration, but must first apply for a *mandamus* to compel compensation (*R.* v. *Burslem L. B.*, 28 L. J. Q. B. 345; 29 *Ib.* 242). If the Board only deny the fact of damage, the party may proceed to arbitration (*Bradby* v. *Southampton L. B.*, 4 E. & B. 1014).

(*c*) An offender cannot be summarily convicted under the Public Health

manner, and in default the offender may be imprisoned, without bail, for not exceeding three months (11 & 12 Vict. c. 63, s. 129). Mode of proceeding, &c. (ss. 130 to 134). Penalties payable to the District Fund Account (21 & 22 Vict. c. 98, s. 67). Demands below 20*l.* may be taken to the County Court (24 & 25 Vict. c. 61, s. 24). Any person may appeal to the Quarter Sessions against any rate, which may be amended or quashed (*a*) (11 & 12 Vict. c. 63, ss. 135 to 137). The Board may sue and be sued in the name of their Clerk (*b*), &c.; proceedings thereon (ss. 138 to 140). Service of notices (s. 150) (*c*). Any summons, demand, or notice, to be signed by the Clerk (21 & 22 Vict. c. 98, s. 61). Penalties for obstructing officers, defacing notices, &c., or obstructing works (11 & 12 Vict. c. 63, s. 148). Documents exempt from stamp duty (s. 151).

*Rates, &c.*—The Treasurer of the Local Board must keep a separate "District Fund Account," the moneys carried to which are to be applied by the Board in defraying expenses not otherwise provided for under the Act; and the Board must levy General District Rates for defraying such expenses (11 &

Act, except by the Justices for the Petty Sessional Division in which the offence was committed (*R.* v. *Broadhurst*, 1 New Reports, 477).

(*a*) The Justices have no power to entertain objections as to the validity of a rate good on the face of it. The party must appeal under 11 & 12 Vict. c. 63, s. 135 (*Luton L. B.* v. *Davis*, 29 L. J. M. C. 173).

(*b*) Where five members of a Local Board entered into a contract for works, and covenanted "for themselves, their heirs, executors, and administrators," but "for and on behalf of the Local Board," it was held that the Clerk to the Board was the proper person to sue for breach of such contract, under s. 138 Public Health Act (*Cobham* v. *Holcombe*, 8 C. B. 815).

A judgment against a Local Board is a charge upon the rates, which may be satisfied within six months, to commence from the time when execution might first issue (*R.* v. *Rotherham L. B.*, 8 E. & B. 906; 27 L. J. Q. B. 156).

(*c*) Where notice from a Local Board, under s. 69 of the Public Health Act, was served at the office, not the residence, of the respondent, by being read over to, and left with his clerk: it was held, that such service was good under s. 150. Pollock, C.B.: "The service appears to me good under either section, and it appears to me clear that this notice was served on an inmate of the respondent's place of abode; nor can I see any ground for doubt on either point." (*Mason* v. *Bebby*, 3 New Reports, 482.)

12 Vict. c. 63, s. 87). The power to raise Special District Rates under the Public Health Act is repealed (21 & 22 Vict. c. 98, s. 54). Such Special rates may be levied as General District Rates, without affecting any mortgages thereon (24 & 25 Vict. c. 61, s. 12). With the sanction of the Secretary of State and the Mortgagees, such mortgages may be paid off, and the money re-borrowed on the General District Rates (Ib. s. 13). Such rates are to be assessed on the occupier, or, in certain cases, the owner, on the full net annual value, with certain exceptions and exemptions (*a*) (21 & 22 Vict. c. 98, s. 55), and may be estimated from the poor-rate books, which may be inspected for the purpose, or valued under any Act for regulating parochial assessments (s. 56). Such rates may be made prospectively or retrospectively, and be apportioned between outgoing and incoming tenants, but are not to be charged on unoccupied premises; and parts of Districts may be separately assessed (11 & 12 Vict. c. 63, s. 89).

The Board may make Private Improvement Rates upon premises whereon such expenses have been incurred, so that the same be repaid with interest within thirty years (s. 90); a proportion of which, when paid by the occupier, is to be deducted from the rent payable to the owner (s. 91). Any such expenses for which the owner is liable are recoverable by the Board when the works are completed (*b*) (21 & 22 Vict.

(*a*) In the case of a railway, it has been held, that the actual line of road, and such parts only as were necessary to its use, are liable to be rated at one-fourth the annual value, but that all other property of the Company, as stations, &c., should be rated at the full value (*South Wales Railway* v. *Swansea L. B.*, 4 E. & B. 189; 24 L. J. M. C. 30).

A wet dock and railway for goods only in connection therewith, are both within s. 55 of the Local Government Act, and for rating purposes to be assessed at one-fourth the annual value (*R.* v. *Newport Dock Co.*, 31 L. J. M. C. 266).

Places exempt from rates under any Local Act, by mere reason of their locality, will not therefore be exempt from district rates under these Acts, when such places are included within the district of a Local Board (*R.* v. *Luscombe, &c.*, 27 L. J. M. C. 299; *Chelmsford* v. *Chelmsford L. B.*, 2 E. & B. 500; *Tait* v. *Carlisle L. B.*, *Ib.* 492; *Coates* v. *Hull L. B.*, 2 Jur. N. S. 1086.

(*b*) Where, in the owner's default, a Local Board had done certain works

c. 98, s. 62); and may be declared payable with interest by annual instalments, and recoverable from the owner or occupier in the same manner as General District Rates, and deducted in like proportions from the rent (24 & 25 Vict. c. 61, s. 23). Such Private Improvement Rate may be redeemed at any time (11 & 12 Vict. c. 63, s. 92). The Board must make a separate water rate upon the net annual value of premises supplied by them (s. 93), payable in advance. In case of non-payment such supply may be stopped, and the arrears recovered as other rates (s. 94). Rates may be reduced or remitted on account of poverty (s. 96). Nothing in the Act is to affect agreements between landlord and tenant (s. 97). Any rate is to be estimated before it is made and placed in a book, open to inspection (s. 98), and notice given of the intention to make any General District Rate (s. 99). Any person assessed may inspect such rate and make extracts, under penalty for obstruction not exceeding 5*l.* (s. 100). If the name of any person be not known "the owner" or "the occupier" will be a sufficient description (s. 101). Any rate may be amended (s. 102). Rates to be published in the same manner as poor-rates, and collected as the Board appoint (*a*). Defaulters may be summoned before any Justice, who may levy by distress (s. 103), in the

under s. 51 of the Public Health Act, the expenses being recoverable in a summary manner under s. 129, but the complaint (under s. 11 of Jervis's Act) must be laid within six months from the time when the matter of complaint arose: it was held, that under the Public Health Act, a complaint must be made within six months of the work being done, and notice given of the amount due (the provision as to time in s. 62 of the Local Government Act being prospective only), and not within six months of demand for payment (*Eddleston* v. *Francis*, 7 C. B. N. S. 568).

But where judgment by default had been signed within six months before bringing the present action for money paid by mistake more than five years previously: it was held, that such "judgment by default is not a 'charge' under s. 89 of the Public Health Act, unless the action in which it was recovered was brought within the time specified by the Act. In this case there had been laches in bringing the action. The doctrine that every judgment against a Local Board is a charge within s. 89, cannot be sustained." (*Burland* v. *Hull L. B.*, 1 New Reports, 25.)

(*a*) No such rate can be made in respect of property not assessable to the poor-rate. Property, therefore, not in the occupation of some person charge-

form prescribed (s. 104). Production of the book to be *primâ facie* evidence of the validity of the rate (s. 106).

*Audit of Accounts.*—In Boroughs the accounts of the Local Board are to be audited in like manner as the Municipal accounts; and in other Districts by the Poor Law Auditor, in manner prescribed, as to disallowances and appeal, recovery of the same, production of books, notice of audit, and report of the auditor (21 & 22 Vict. c. 98, s. 60). The accounts of Improvement Commissioners acquiring powers of rating, &c., under the Local Government Act, to be audited in like manner (24 & 25 Vict. c. 61, s. 3). Seven days prior to the audit the accounts must be made up and open to inspection by the ratepayers, who may object to the same before the Auditor; penalty on any officer for neglect, 40*s.* (Ib. s. 15).

*Mortgage of Rates.*—The Local Board may, with the sanction of the Secretary of State, and within certain limits, borrow any necessary sums on mortgage of the rates for any period not exceeding thirty years (21 & 22 Vict. c. 98, s. 57). On petition such borrowing powers may be extended by the Secretary of State, after inquiry, who may issue a provisional order thereupon to be confirmed by Parliament (s. 78; and 24 & 25 Vict. c. 61, s. 19). Money advanced for Private Improvements may be secured by a rent-charge on the premises in respect of which such advance is made, in manner prescribed (s. 58). Such rent-charges to be registered (s. 59). Money advanced on mortgage of Special District Rates under the Public Health Act, may be paid off and re-borrowed on mortgage of the General District Rates (24 & 25 Vict. c. 61, s. 13). Where, under any local Act, the consent of the General Board of Health is required to any mortgage, the consent of the Secretary of State is sub-

able with poor-rates in respect thereof cannot be rated by the Local Board (*Hodgson* v. *Carlisle L. B.*, 8 E. & B. 116).

There is no limit under the statute to the time when rates may be made for charges incurred before the formation of the district, and which, by the provisional order, are to be defrayed out of the rates (*Ward* v. *Lowndes*, 28 L. J. Q. B. 265; 29 *Ib.* 40).

stituted (s. 14). Any sanctions given by such General Board to continue in force (21 & 22 Vict. c. 98, s. 8). The Public Works Loan Commissioners (*a*) may advance money on such mortgages (11 & 12 Vict. c. 63, s. 108). Money may be borrowed at a lower rate of interest to pay off securities at a higher rate (s. 109), or may be re-borrowed on expiration of mortgages (s. 110). Form of mortgage prescribed, which must be registered, and such register open to inspection, under penalty

(*a*) By the 24 and 25 Vict. c. 80, continuing powers conferred by the 14 & 15 Vict. c. 23; 19 & 20 Vict. c. 17, &c., a sum not exceeding 360,000*l.* per annum for five years from the 4th April, 1862, is placed at the disposal of the Commissioners, to be charged upon the Consolidated Fund, for the purposes of making such advances for public works (exclusive of loans under the Harbours and Passing Tolls Act, 1861), and for such periods as they may from time to time be authorised to make, bearing interest at 5*l.* per cent. (7 Geo. 4, c. 30, s. 2); and, with the previous consent of the Treasury, loans under the Public Health Act may be granted at a lower rate of interest, but not less than 3½ per cent. (16 & 17 Vict. c. 40, s. 3). On application at the Public Works Loan Office, South Sea House, Threadneedle-street, any board may obtain a loan on the terms and security authorised by the special Acts in that behalf, and prescribed by the Commissioners, who require all moneys advanced by them to be repaid by annual instalments within twenty years; and by 16 & 17 Vict. c. 40, s. 2, it is enacted that in all cases where loans shall be made by the Public Works Loan Commissioners they shall (notwithstanding any other act passed or to be passed to the contrary) be made in accordance with the provisions of the Public Works Loan Acts; and the securities for the same shall have such priorities as if they had been made under the said Acts except as altered by express reference to this Act. These loans, however, may be paid off at any time without notice.

To meet the distress caused by the cotton famine in the counties of Chester, Lancashire, and Derby, consequent on the war between the Federal and Confederate States of North America, the Public Works (Manufacturing Districts) Act, 1863 (26 & 27 Vict. c. 70) was passed, extended by the 27 & 28 Vict. c. 104, under which the Poor Law Board were empowered until the 1st January, 1865, to issue orders for loans which the Commissioners were authorised to advance to the extent of 1,550,000*l.* in the whole, for the execution of sanitary works in those counties; such loans to bear interest at the rate of 3*l.* 10*s.* per cent., payable by instalments in thirty years, on security of the rates, the amount so lent to any local authority not to exceed two years' rateable value of the property assessable in their district,—over and above any loans which they might raise under any other Act. The provisions of ss. 57 and 78 of the Local Government Act, 1858, are not to apply to such loans; and increased facilities for the adoption of that Act were given within such counties until the 1st July, 1864. See these Acts in the Appendix.

not exceeding 5*l.* for refusal (s. 111). Mortgages may be transferred, such transfer to be registered (s. 112). A Receiver may be appointed when the sum secured be not less than 1000*l.* (s. 114). Such Receiver may also be appointed in case of failure to elect a Local Board, or lapse from any cause, and he may make, as well as receive, rates, &c. (21 & 22 Vict. c. 98, s. 10), which power shall cease on the election of a new Board for such District, to whom shall attach all the liabilities of such lapsed Board (s. 11). All the provisions of the Local Government Act, Nuisances Removal Acts, and other general Acts, are extended to Local Boards of Health, constituted under local Acts, except such as are opposed to such local Act (24 & 25 Vict. c. 61, s. 29). Every Local Board must make an annual report of their proceedings to the Secretary of State as he shall direct, and publish the same in the newspaper (21 & 22 Vict. c. 98, s. 76).

## NUISANCES REMOVAL COMMITTEES, ETC.

*Rates.*—All expenses incurred in the execution of the Nuisances Acts are to be defrayed out of the General District Rates, the Borough Fund, the Improvement Rates, or the Poor-Rates, as the case may be, in manner prescribed (23 & 24 Vict. c. 77, ss. 4, 5). All such expenses under the Diseases Prevention Act are to be defrayed out of the Poor-Rates, except such as are previously incurred, and unless any other body than the Guardians, &c., be authorised to act (s. 11).

The Local Authority [see "Constitution of Local Authorities"], in case of nuisance existing, or likely to recur, is to summon the owner or occupier before two Justices, who may make an order for the abatement thereof, &c. (18 & 19 Vict. c. 121, s. 12). They may direct any proceeding within the purview of the Acts, or for penalties, the expenses to be paid out of the rates (s. 30). Mode of proceedings prescribed (ss. 31 to 42). Not to affect proceedings under any other Authority for abating nuisances, who have all powers conferred on the Local Authority under this Act (s. 43).

## METROPOLIS MANAGEMENT BOARDS.

All proceedings of the Metropolitan Board of Works, and of the District Boards [see "Constitution of Local Authorities"] must be entered in books; and books of accounts are also to be kept (18 & 19 Vict. c. 120, s. 60), open to inspection by the ratepayers and others: penalty for refusal not exceeding 10*l.* (s. 61). They may appoint all necessary officers (s. 62), who are not to be interested in any contracts with the Boards (s. 64). Those who are entrusted with money must give security (s. 65). The Metropolitan Board of Works may direct one set of officers to be appointed for more than one Parish or District (s. 139). The Boards may enter into contracts (s. 149) (*a*), and purchase lands, &c. (ss. 150 to 155; and 21 & 22 Vict. c. 104, s. 3). They may levy rates for sewerage and other expenses (18 & 19 Vict. c. 120, s. 158), to be collected as the poor-rate, and distinguished as sewer, lighting, and general rate, in manner prescribed (*b*) (ss. 160 to 169; 19 & 20 Vict. c. 112, ss. 4 to

(*a*) The decision of the Board, acting *bonâ fide*, as to the proper supply of materials by a Contractor, will not be reviewed by the Court (*Austin* v. *Lambeth Vestry*, 22 Jur. 274; *Ib.* 1032; 27 L. J. Ch. 388, 392).

The Metropolitan Board of Works have no power to erect works on the bed of the River Thames without the consent of the Admiralty, under s. 27 of 21 & 22 Vict. c. 104. Where the Board, without such consent, had obstructed the navigation by driving piles, and a vessel grounding on such piles was injured: it was held, that the Board were liable to be sued by the owner of the vessel, there having been no negligence on his part (*Brownlow* v. *The Metropolitan Board*, 4 New Reports, 173, confirming judgment of the Common Pleas; see 13 C. B. N. S. 768).

(*b*) Where expenses, incurred under s. 159 of 18 & 19 Vict. c. 120, are not for the equal benefit of the whole parish, a part may be exempted by the Vestry from the rate: held, that Docks, in respect of the area covered by water, ought to be exempted from a paving rate (*Howell* v. *London Dock Co.*, 8 E. & B. 212; 27 L. J. M. C. 177.)

Property not drained by sewerage works is not liable to be assessed in respect of such works; but if it be so drained and lie within the district benefited, it is not entitled to claim a reduction, under s. 164 of the Metropolis Management Act, because the benefit derived is small. Cockburn, C.J.: "The use to which land is applied may be constantly changing, but as soon as it is made out that it is drained by the sewerage works the exemption is

8; 21 & 22 Vict. c. 104, ss. 10 to 14). The Metropolitan Board may make rates in default of District Boards (21 & 22 Vict. c. 104, s. 15). The Metropolitan Board is to assess the proportion of expenses to be borne by each District for their expenses, which must be paid by the District Boards, &c., in manner prescribed (*a*) (Ib. ss. 16 to 22; and 18 & 19 Vict. c. 120, ss. 170 to 179). Money may be borrowed on security of the rates (ss. 183 to 191; 21 & 22 Vict. c. 104, ss. 4 to 8; 25 & 26 Vict. c. 102, s. 100; 26 & 27 Vict. c. 68, s. 2). Accounts to be duly audited (ss. 192 to 197; and 25 & 26 Vict. c. 102, s. 114). District Boards are to report annually to the Metropolitan Board (18 & 19 Vict. c. 120, s. 198), who must report to the Secretary of State (s. 200), which report is to be laid before Parliament (s. 201). The several Boards may make Bye-laws for all necessary purposes (ss. 202, 203). Penalties for obstructing officers, &c. (ss. 208, 209). Persons aggrieved by any orders of District Boards, in relation to works, may appeal to the Metropolitan Board (ss. 211, 212; and 25 & 26 Vict. c. 102, ss. 29 and 57). Repayment of expenses by private parties may be spread over twenty years (Ib. s. 30; and 18 & 19 Vict. c. 120, s. 216). Expenses may be recovered from the owner or the occupier, to be deducted

gone. When once the fact of rateability is established, it is not a question of degree depending on the use to which the premises are from time to time applied, but the only principle on which the amount depends is that which the Legislature has provided, namely, the value of the property assessable to the poor-rates." (*R.* v. *Head*, 1 New Reports, 313.)

(*a*) Where, under a Local Act, churchwardens were required to convene a Vestry at which they or any nine of them were required to make a composition rate; and under the Metropolis Management Act all the duties, powers, &c., which might have been performed by the Vestry were vested in the new body: it was held, that the power of making the composition rate under the Local Act was transferred to the new Vestry (*R.* v. *Stutfield*, 2 New Reports, 180); and where, under the 181st sect. of the Metropolis Management Act, the Metropolitan Board had issued their precept to the overseers of an outlying district to make a rate, which they refused, whereupon the Board appointed a person to make a rate, and in default of payment applied to the Justices to issue a distress warrant, which they declined to do, a *mandamus* was granted to compel them (*Metropolitan Board* v. *Glossop*, 1 New Reports, 372).

from the rent, unless otherwise agreed (25 & 26 Vict. c. 102, ss. 96, 97). As to notices and legal proceedings (*a*) (18 & 19 Vict. c. 120, ss. 220 to 234; 19 & 20 Vict. c. 112, s. 9; 25 & 26 Vict. c. 102, ss. 65 and 102 to 107). Churchrates, &c., are not to be affected by these Acts, but to be made by Churchwardens as heretofore (Ib. ss. 1 to 3). Further provisions in respect to the payment of loans, and assessment and recovery of rates, &c., are contained in the Metropolis Management Amendment Act (25 & 26 Vict. c. 102, ss. 1 to 19). Public Works Loan Commissioners may lend money (*b*) (s. 20). Resolutions of the Board authorising expenditure of 20,000*l.* or upwards must be confirmed (s. 23). The Vestry or Board may determine the powers of any inspectors of weights and measures under any local Act (s. 101).

BATHS AND WASHHOUSES ACTS.

[See "Baths and Washhouses."]

RECREATION GROUNDS AND PUBLIC IMPROVEMENTS ACTS.

[See "Public Pleasure-Grounds."]

COMMON LODGING-HOUSES,
LABOURING CLASSES LODGING HOUSES, AND
LABOURERS' DWELLINGS ACTS.

[See "Common Lodging-Houses."]

THE BURIAL ACTS.

[See "Burial-Grounds."]

(*a*) Contractors under authority of the Metropolitan Commissioners of Sewers by negligence injured premises in executing the statute: Held, that they were exempted from all liability (*Ward* v. *Lee*, 7 E. & B. 426); but where injury is done to premises in carrying out works authorised by statute, which, by proper care and skill might have been avoided, it was held, that an action would lie, and s. 225 of the Metropolis Management Act will not preclude such action (*Clothier* v. *Webster*, 31 L. J. C. P. 316).

(*b*) See note, p. 126.

# SURVEYOR.

## PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

For the performance of their duties in carrying out works of Sanitary Improvement in Districts to which the Public Health and Local Government Acts are applied, the Local Board of Health are empowered to appoint a Surveyor, who may also be the Inspector of Nuisances; and to make Bye-laws for the regulation of his duties, &c. (*a*) (11 & 12 Vict. c. 63, s. 37). He must not be interested in any bargain or contract made with such Board, or accept any fee or reward other than his salary, under penalty of 50*l*. (s. 38). If entrusted with money he is to give security, and duly account to the Treasurer (s. 39). The Surveyor's report that such works are necessary is required to enable the Local Board to carry any sewers through any land not being a public way (s. 45). The Surveyor must report to the Board as to the proper construction of house-drainage, or as to the want of drainage to any house (s. 49). Also as to the want of a proper watercloset or privy, and an ash-pit with doors and coverings, &c. (s. 51). He may, on the Board's authority, enter any premises, and, if necessary, open the ground to ex amine any offensive drain, or other cause of nuisance (s. 54). He is also to approve the manner in which the window of any cellar dwelling is made to open (s. 67). The Surveyor is to settle the proportion of the expenses of sewering, paving, &c., of streets, to be borne by the owners, according to the frontage of their premises (s. 69); and he must prepare plans and sections of such works in manner prescribed (24 & 25 Vict. c. 61, s. 16). He may perform all ministerial acts required to be done by the Local Board as Surveyor of Highways (21 & 22 Vict. c. 98, s. 37). The Surveyor must certify as to the effectual substitution of any sewers, &c., by any navigation

(*a*) See instructions and suggestions as to the duties of Surveyor, pp. 633-652.

company, &c., for any like works constructed by the Local Board, which may be disturbed by such company (11 & 12 Vict. c. 63, s. 72). He may give notice requiring the owner of any house to obtain, within a specified time, a sufficient supply of water (s. 76, and 21 & 22 Vict. c. 98, s. 51); and shall approve ventilation of cellar dwellings. [See "Cellar Dwellings."] The Surveyor is to give notice to the owners of ruinous buildings to take down or repair the same, and may lay a complaint before two Justices, who may order the necessary works to be done; and, in case of default, the Board may execute the same at the owner's expense, &c. (21 & 22 Vict. c. 98, s. 44; and 10 & 11 Vict. c. 34, s. 75, *et seq.*)

METROPOLIS MANAGEMENT ACTS.

All new houses in the Metropolis must be drained to the satisfaction of the Surveyor of the District Board of Works (18 & 19 Vict. c. 120, s. 75), who may inspect all drains, &c. (s. 82). The Surveyor must approve the construction of windows in cellar dwellings (s. 103). District Surveyors to report on cellar dwellings. [See "Cellar Dwellings."] The Treasury may appoint Engineers to report on the works of the Metropolitan Board (21 & 22 Vict. c. 104, s. 9.)

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## INSPECTOR OF NUISANCES.

PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

For the due performance of their duties, in Districts to which the Public Health and Local Government Acts are applied, the Local Board of Health are empowered to appoint an Inspector of Nuisances,—which office may be filled by the Surveyor,—and to make Bye-laws for regulating his duties (*a*), &c. (11 & 12 Vict. c. 63, s. 37). He is not to be

(*a*) See suggested forms for Bye-laws, pp. 619-632, 652.

interested in any bargain or contract made with such Board, or accept any fee or reward other than his salary, under penalty of 50*l.* (s. 38). If entrusted with money he must give security, and duly account to the Treasurer (s. 39). The Inspector of Nuisances may give notice to the owner or occupier of any premises to remove any manure or offensive matter, and if not complied with within twenty-four hours, the same may be seized and sold (11 & 12 Vict. c. 63, s. 59) at the owner's expense, recoverable in a summary manner (21 & 22 Vict. c. 98, s. 32). The Inspector of Nuisances may enter and inspect any shop for the sale of meat, poultry, fish, &c., or any slaughterhouse, and may seize any article which appears to him unfit for human food, to be dealt with by any Justice (11 & 12 Vict. c. 63, s. 63; and 10 & 11 Vict. c. 34, s. 131).

### NUISANCES REMOVAL AND DISEASES PREVENTION ACTS.

Inspectors of Nuisances may be appointed, and remunerated by the Local Authorities (23 & 24 Vict. c. 77, s. 9). He may seize unwholesome food, &c. (26 & 27 Vict. c. 117, s. 2). [See "Diseased Meat."]

### METROPOLIS MANAGEMENT ACTS.

In the Metropolis every Vestry or District Board must appoint an Inspector of Nuisances (*a*) to superintend scavengers, and to report all complaints of infringements of the Act, or the Bye-laws thereunder, and to take proceedings for any offences (18 & 19 Vict. c. 120, s. 133).

### REGULATION OF BAKEHOUSES.

The Inspector of Nuisances may be instructed by the Local Authority to enter and inspect any Bakehouse, to ascertain the condition thereof (26 & 27 Vict. c. 40, s. 6). [See "Regulation of Bakehouses."]

(*a*) By the City Sewers Act, s. 88 (see note, p. 37) the Commissioners are required to appoint an Inspector of Nuisances for the City of London.

# BODILY CARE.

## HEALTH IN THE FACTORY.

Numerous statutes are in force for the protection of women and children employed in various trades, so as to prevent their health from being injured either by excessive hours of labour, or from the neglect of ventilation and cleanliness.

### FACTORIES IN GENERAL (a).

The first Act for the preservation of health in Factories is the 4 Geo. 3, c. 73, which enacts that in all cotton and woollen mills where three or more apprentices are employed, due ventilation shall be provided (s. 2), also suitable clothing (s. 3); and that the hours of labour are not to exceed twelve hours per day, exclusive of meal times, to be between 6 a.m. and 9 p.m. (s. 4). Visitors may be appointed by the Justices (s. 9), who, in case of sickness, may require Medical assistance to be provided at the owner's expense (s. 10). There are now, however, very few such mills which are not regulated in these respects by the subsequent Factory Acts. At present no child is allowed to be employed in any Factory before 6 a.m. nor after 6 p.m., except to make up lost time, nor after 2 p.m. on Saturday (16 & 17 Vict. c. 104, s. 1); nor must any child be employed more than 6½ or seven hours in any one day (7 Vict. c. 15, s. 30); or ten hours on three alternate days (s. 31). No child under 8 is to be employed in any Factory (s. 29), or print

(a) An Analysis of such provisions only of the Factory Acts as relate to health is here given. For a complete collection of these statutes, see the separate editions of the Factory Acts.

work (*a*) (8 & 9 Vict. c. 29, s. 19); nor are children to be employed in wet Spinning Mills unless protected from wet and the escape of steam (7 Vict. c. 15, s. 19). Under certain conditions the hours may be from 7 a.m. to 7 p.m. from the 30th of September to the 1st of April (16 & 17 Vict. c. 104, s. 2); provided that to make up lost time by stoppage of water, &c., such children may be employed one hour extra until 7 a.m. within six months of the stoppage (s. 3). Similar restrictions are in force with respect to young persons and females, who, except to make up lost time, are not to be employed more than twelve hours, meal times included (*b*) (13 & 14 Vict. c. 54, ss. 1, 4, 5, 6, and 7; also 7 Vict. c. 15, ss. 32 to 34). One and a half hours must be daily allowed for meals (*c*) (3 & 4 Will. 4, c. 103, s. 6), between half-past 7 a.m. and 6 p.m. (13 & 14 Vict. c. 54, ss. 3 and 8), one hour thereof at least before 3 p.m., and half an hour at least in five hours before 1 p.m. (7 Vict. c. 15, s. 36). Eight half-holidays a year must be given, besides Christmas-day and Good Friday (3 & 4 Will. 4, c. 103, s. 9; 7 & 8 Vict. c. 15, s. 37).

(*a*) Where a child was solely employed in stitching leather on braces, the webbing being made in another part of the building, it was held, that this was not within the exception in s. 73, 7 & 8 Vict. c. 15 (*Taylor* v. *Hicks*, 31 L. J. M. C. 242); and where children were employed in a building in which steam-power was used for winding thread previously manufactured elsewhere, from skeins on to reels, it was held, that such was a factory within 3 & 4 Will. 4, c. 103, and 7 & 8 Vict. c. 15.—Cockburn, C. J.: "This is a factory within both statutes. The process in question is a winding within the first, and a process incident to the manufacture of the thread within the second, for it brings the cotton into a state in which it certainly was not at the time it was in the skein. And the case is unquestionably within the mischief against which both these Acts were directed" (*Haydon* v. *Taylor*, 3 New Reports, 116). Premises used for plaiting cotton round strips of steel for crinoline are also within the 7 & 8 Vict. c. 15 s. 73 (*Whymper* v. *Harney*, 5 New Reports, 369). But where a paper maker had a separate mill for the manufacture of cotton waste into "half stuff," which was sent to the paper mill to be made into paper, and was never used for any other purpose: it was held, that the "half stuff" mill came within the exception of the 7 & 8 Vict. c. 15, regarding "any factory or part of a factory used solely for the manufacture of paper" (*Coles* v. *Dickenson*, 4 New Reports, 335).

(*b*) Or nine hours under sixteen years old, unless provided with a certificate of being at least thirteen (3 & 4 Will. 4, c. 103, s. 14; 7 Vict. c. 15, s. 9).

(*c*) These provisions concerning meal times and holidays do not extend to print works.

The strength and healthy appearance of any child under 13, employed in a Factory, must be certified by a Medical man in the form prescribed (*a*) (3 & 4 Will. 4, c. 103, ss. 11, 12, 13; 7 Vict. c. 15, s. 9; 8 & 9 Vict. c. 29, ss. 20, 21). Certifying Surgeons to be appointed (7 Vict. c. 15, s. 8); to act under regulations as to fees, &c., and in manner prescribed (ss. 9 to 17; and 8 & 9 Vict. c. 29, ss. 7 to 18). No child or female is to be employed in any Print Work during the night (s. 22). The walls and ceilings of Factories must be lime-washed and cleansed at least once in every fourteen months (7 Vict. c. 15, s. 18). No young person is to be employed to clean machinery in motion, or to work between the fixed and traversing part (s. 20), and machinery must be securely fenced (*b*) (s. 21; and 19 & 20 Vict.

(*a*) Where a child of eleven years old had been employed without a surgeon's certificate required by 8 & 9 Vict. c. 29, s. 20, in "scutching" goods which had been previously printed, it was held that the employer was liable to the penalty notwithstanding that no process connected with printing was carried on in the room where the child worked.—Cockburn, C. J.: "There can be no doubt that this case is within the mischief contemplated by the statute, that is, the employment of young children, except on satisfactory proof of their healthy condition in buildings where printing is carried on" (*Hardcastle* v. *Jones*, 1 New Reports, 54).

(*b*) All but the operative wheel requires fencing: and where machinery is protected when a servant is first employed, and he complains to his master that such protection is removed or worn out, and is promised that it shall be restored, the master is liable for injury arising to the servant from the absence of such protection (*Holmes* v. *Clarke*, 6 H. & N. 349; 30 L. J. Ex. 135). Machinery must be fenced in the most secure manner possible (*Schofield* v. *Schunk*, 24 L. T. 253); not children only, but all persons are entitled to recover (*Coe* v. *Platt*, 2 L. M. & P. 488; 6 Exch. 752; 7 Exch. 460). The right to recover damages at common law is not in any way interfered with by the remedies provided by the statute (*Caswell* v. *Worth*, 5 E. & Bl. 849; 2 Jur. N. S. 116; 25 L. J. Q. B. 121). Any person causing, by wrongful act, neglect, or default, the death of another, shall be liable to an action for damages to be brought by the executor or administrator for the benefit of the relatives of the deceased (9 & 10 Vict. c. 93). Under this statute, where a person is killed by such negligence as would have given him a right of action for injury had he survived, damages may be recovered for the benefit of the relatives for pecuniary loss by his death, although such loss would not have resulted to himself had he lived in a disabled state; and the loss of superior education and greater comforts is such a loss where the income wholly ceases with the life of the deceased (*Pym* v. *Great Northern Railway*, 31 L. J. Q. B. 249). An action will not lie, under this Act, where there is no pecuniary damage (*Duckworth* v. *Johnson*, 4 H. & N. 653; 29 L. J. Ex. 25). So,

c. 38, ss. 4, 5, 6). These last-mentioned provisions do not extend to Lace Factories (24 & 25 Vict. c. 117, s. 6). Notice of any accident causing bodily injury must be sent to the Certifying Surgeon (7 Vict. c. 15, s. 22), who is to examine and report to the Factory Inspector (s. 23), who may be directed by the Secretary of State to bring an action in the name of any injured person (s. 24). By the Act for the Extension of the Factory Acts (*i.e.*, 4 Will. 4, c. 103; 7 Vict. c. 15; 14 Vict. c. 54; 17 Vict. c. 104; and 20 Vict. c. 38), it is provided that buildings used for the manufacture of Earthenware, Lucifer Matches, Percussion Caps, Cartridges, Paper Staining, and Fustian Cutting, are to be within the provisions of the above-mentioned Acts (27 & 28 Vict. c. 48, ss. 1 to 3). Every Factory to which this Act applies must be kept clean and ventilated, so as to render harmless any gases, dust, &c., under penalty not exceeding 10*l.* nor less than 3*l.*; or, in case of the neglect of any Order directing means to be adopted for the purpose, 1*l.* a-day during non-compliance (s. 4). Occupiers may make rules (with the approval of the Secretary of State)

where a child was killed by negligence, and the jury found there was no money damage, but a sum expended on the funeral and for medical attendance; it was held, that such expenses are not recoverable, and the action could not be maintained (*Boulter* v. *Webster*, 5 New Reports, 238). A master who, by his negligence, personal interference, or employment of incompetent assistants, contributes to an accident whereby his servant receives an injury in his service, is responsible for such injury; but in the absence of a special contract, he is not liable for an accident not proved to have been occasioned by such negligence on his part (*Ormond* v. *Holland*, 1 E. B. & E. 102). Where a carpenter at work at a railway station was injured by the negligence of the men engaged in the traffic of the line, it was held, that the company were not liable to compensate him for the injury, because it was one of the risks naturally incidental to his employment, for the incurring of which he must be held compensated by his wages. The question as to the employment of servants in a common object is immaterial to the question of the master's liability in case of negligence, if the injury was consequent on a risk incidental to the employment in which the injured servant was engaged (*Morgan* v. *Vale of Neath Co.*, 4 New Reports, 460). So, also, where the servant of A., who was employed by B. to carry goods, was injured by the negligence of B.'s servants whilst loading a cart; it was held that B. was liable for the injury, they not being under the same control, or so employed upon a common object as to take away the right of action against B, by the servant of A (*Abraham* v. *Reynolds*, 5 H. & N. 143). See note, p. 143.

for compelling among workmen the observance of conditions necessary to secure such ventilation and cleanliness, and may annex a penalty not exceeding 1*l.* for nonobservance (s. 5). Prior to 25th of January, 1867, children of not less than 12 may be employed under this Act for the same time and subject to the same conditions under which young persons exceeding 13 may be employed under the Factory Acts. No child or female is to take meals in any room where any part of Lucifer Match making (except cutting wood) is usually carried on. No child under 11 is to work in the employment of Fustian Cutting. Except that no child or female must remain during meal times in the Dipping Houses, Dippers' Drying-rooms, or China Scouring-rooms, the provisions of the Factory Acts as to meals will not apply to Paper Staining or the manufacture of Earthenware, prior to 25th of January, 1866. The provisions of 7 & 8 Vict. c. 15, s. 18, as to painting and lime-washing, do not apply to rooms used solely for the storage of Earthenware (s. 6). Inspectors are appointed by the Secretary of State to enforce the due observance of these Statutes, under which powers are given as to the recovery of penalties for any neglect or default in carrying out the prescribed regulations in the manner therein set forth.

### LACE FACTORIES.

All the provisions of the Factory Acts are applied to Lace Factories by the 24 & 25 Vict. c. 117, s. 1, except that youths between 16 and 18 may be employed not exceeding nine hours, between 4 a.m. and 10 p.m., so that it be not earlier than 6 a.m. and later than 6 p.m. of the same day; nor later than 6 p.m. of any day, and earlier than 6 a.m. of the succeeding day (s. 2). The provisions of the Factory Acts relating to making up lost time, or to the fencing of machinery, do not extend to Lace Factories (ss. 5, 6).

Rope works, for simply laying or twisting or other process of preparing or finishing twines, ropes, &c., are declared not within the operation of the Factory Acts by the 9 & 10 Vict. c. 40.

## BLEACHING AND DYEING WORKS.

The provisions of the Factory Acts are declared to apply to Bleaching and Dyeing Works by the 23 & 24 Vict. c. 78, s. 1; extended by 25 Vict. c. 8, to bleaching by the open-air process so far as to prevent the employment of women and children in bleaching, dyeing, or finishing (*a*) yarn, &c., between 8 p.m. and 6 a.m., except to recover lost time; further extended by 26 & 27 Vict. c. 38, to any premises for calendering any yarn, &c., or other material, in which steam or other mechanical power is used. Still further extended by the 27 & 28 Vict. c. 98, to premises employed in finishing, hooking, or lapping, or making up or packing any yarn or cloth of cotton, wool, silk, flax, or other materials; but not to any building where all the persons employed are males above fourteen; and owners may by notice to the Inspector elect what shall be the working hours on such premises for females and children, so that the total in any one day or week allowed by the above-mentioned Acts be not exceeded, and that such be within the twelve hours commencing from 6, 7, or 8 o'clock in the morning. Where time has been lost by fluctuations in trade, &c., females and young persons may be employed in recovering such lost time until half-past 4 p.m. on Saturdays, and 8 p.m. on other days, provided that the time during the previous six months does not exceed the total number of hours allowed by law (23 & 24 Vict. c. 78, s. 2); in any case not to exceed twelve hours, or nine hours on Saturday (s. 3). In case the machinery be suspended by day, night-work may be allowed to make up the loss (s. 4). The provisions of the Factory Acts relating to

(*a*) The process of "finishing" is not within the 23 & 24 Vict. c. 78, unless it be carried on as incidental to the operation of bleaching and dyeing (*Howarth* v. *Coles*, 31 L. J. M. C. 262). The exception in s. 9 of the same Act extends to a building which in a commercial sense forms part of the establishment where printing is carried on, though at a distance from it (*Hoyle* v. *Oram*, 31 L. J. M. C. 213).

meal times, fencing machinery, and lime-washing buildings, do not apply to Bleaching and Dyeing Works (ss. 10 and 12).

PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

If within the District of any Local Board of Health any house is used as a building in which persons of both sexes, and above twenty in number, are employed at one time in any manufacture, trade, or business, the Board may, by notice to the owner or occupier, require them within a specified time to construct a sufficient number of waterclosets, or privies, for the separate use of each sex, under penalty not exceeding 20*l.*, and not exceeding 2*l.* per day during default (11 & 12 Vict. c. 63, s. 52).

## SAFETY IN THE MINE.

INSPECTION OF COLLIERIES, ETC. (a)

For the Protection of Miners, it is enacted that no person shall be employed in any coal or ironstone Mine, unless there are in communication with every seam at least two shafts or outlets separated by natural strata, of not less than ten feet in breadth, by which distinct means of ingress and egress are available—either belonging to the same or to an adjoining Mine—except in any new working for the purpose of searching for or proving minerals, or for making a communication between two or more shafts where not more than twenty persons are employed (25 & 26 Vict. c. 79, s. 3), unless, on appeal to the Secretary of State, in manner prescribed, from any special cause, any exemption or extension of time for providing a second shaft may have been granted (ss. 4, 5). Compliance with the Act may be enforced by injunction on the application of the Secretary of State, without prejudice to any other legal remedy (s. 6). No female person may be employed in any Mine whatsoever (5 & 6 Vict. c. 99, s. 1); nor any boy under

(a) For the Colliery, &c. Acts, and the law of Mines in general, see the special treatises on the subject.

ten years of age (s. 2); nor any boy under twelve years of age (23 & 24 Vict. c. 151, s. 1), unless a certificate be obtained that he is able to read and write, or that he has attended school for not less than three hours twice a week, exclusive of Sundays, during the preceding lunar month, such certificate to be renewed monthly, and produced when required by an Inspector of Mines (s. 2). Penalty for giving false certificate, not exceeding 10*l.*, nor less than 5*l.* (s. 3). Apprentices not to be under ten, nor be bound for more than eight years (5 & 6 Vict. c. 99, s. 4). Masters are subject to a penalty not exceeding 10*l.* nor less than 5*l.* for every offence (s. 5), and parents, &c., misrepresenting age, are subject to a penalty not exceeding 40*s.* (s. 6). No person other than a male of eighteen years old and upwards, is to be allowed to have charge of any engine or machinery by which persons are passed up or down any shaft or inclined plane (23 & 24 Vict. c. 151, s. 4), under penalty not exceeding 50*l.* nor less than 20*l.* for every offence (5 & 6 Vict. c. 99, s. 8) (*a*), recoverable before Justices in petty sessions, with a final appeal to the Quarter Sessions (ss. 15 to 22). Wages not to be paid at any public house, under penalty (ss. 10 to 13). Inspectors of Mines may be appointed (5 & 6 Vict. c. 99, s. 3), also for coal and ironstone Mines (23 & 24 Vict. c. 151, ss. 8, 9). Every coal and ironstone Mine must be adequately ventilated (*b*); entrances to places not being worked, and suspected to contain dangerous gas, must be fenced off; safety lamps, when required, are to be examined and locked by authorised persons; every shaft or pit out of use or suspended must be fenced (*c*); and every shaft,

(*a*) See *R.* v. *Mainwaring*, 27 L. J. M. C. 278.

(*b*) Where the ventilation of a mine was stopped during the discontinuance of labour therein on Sunday, and an explosion occurred on the first examination of the mine on Monday: it was held, that the mine was being worked within the meaning of the statute, and that the ventilation was insufficient (*Knowles* v. *Dickinson*, 29 L. J. M. C. 135; 6 Jur. N. S. 678).

(*c*) Where the surface of land is occupied by one person, and the minerals by another, and the mineral owner sinks a mine shaft therein, it is his duty so to fence it as to secure from injury the surface owner (*Williams* v. *Groncott*, 2 New Reports, 419).

&c., made secure where the natural strata is unsafe (*a*), and provided with signals between the surface and the bottom ; underground planes on which persons travel must be also provided with signals and places of refuge at intervals of not more than twenty yards ; a sufficient cover over head must, when required, be used in raising or lowering persons ; for which purpose no single link chain is to be used except the coupling chain to the load ; sufficient flanges are to be attached to the drum of every machine for raising or lowering persons ; also a proper indicator, and an adequate break ; every boiler must be provided with proper gauges and a safety-valve ; the fly-wheel of every engine must be securely fenced ; and sufficient bore holes are to be kept in advance or on both sides, to prevent inundations in every working approaching a place likely to contain a dangerous accumulation of water (s. 10). Special rules are also to be made best calculated to prevent accidents (s. 11), and submitted to the Secretary of State, who may alter such rules, subject to arbitration in case of objection (s. 13). Such special rules may from time to time be amended (s. 14), and they must be hung up about the Mine (s. 15). Inspectors are empowered at any time to make inquiries in relation to any such Mine, and must be furnished with means necessary by the owner thereof (s. 16), to whom he is required to give notice of any threatened danger, and also to report to the Secretary of State : if the owner object to remove the danger, the matter may be referred to arbitration. If he do not object, or if the award be not complied with, he will be liable to a penalty of 1*l.* per day during neglect (s. 17). Maps must be produced to the Inspector, and corrected when required by him (s. 18). Notice of any accident must be sent by the owner to

(*a*) Where a miner in the course of his employment was injured by reason of the sides of the shaft being left in an unsecure condition, of which fact he was ignorant ; but one of his masters, the superintendent of the mine, knew of the condition of the shaft, and continued it in such condition : it was held, that an action was maintainable against the masters (*Mellors* v. *Shaw*, 30 L. J. Q. B. 333 ; see also *R.* v. *Brown*, 26 L. J. M. C. 183).

the Secretary of State (*a*), within twenty-four hours ; penalty for neglect, not exceeding 20*l.* (s. 19). Inquests in case of accident must be adjourned to give the Inspector an opportunity of attending (s. 20) (*b*). Notice of abandonment of any coal or ironstone Mine, or of the opening of any one, must, within two months, be sent to the Inspector for the District (s. 21). Recovery of penalties, &c. (ss. 22 to 26). Colliers' wages to be paid in money at an office not contiguous to any public-house, under penalty not exceeding 10*l.* for every offence (s. 28).

(*a*) In Scotland, to the Lord Advocate. See *Underhill* v. *Longridge*, 29 L. J. M. C. 65.

(*b*) There are numerous accidents occurring every year in the working of mines—from explosions of fire-damp, from gunpowder used in blasting, from falling of the sides and roofs of pits and levels, the breaking of insecure ropes and tackle, and reckless carelessness on the part of the miners themselves. When any accident occurs from negligence, though involuntary, on the part of the master, who is bound to take every proper precaution for the safety of his men, he will be liable for the damage sustained (*Brydon* v. *Stuart*, 2 Macq. 34) ; but if the neglect or carelessness of the suffering person aid in causing the injury in any way, he cannot recover damages from another (*Martin* v. *Great Northern Railway Company*, 16 C. B. 192 ; *Waite* v. *North-Eastern Railway Company*, 27 L. J. Q. B. 417 ; *Senior* v. *Ward*, 28 L. J. Q. B. 139 ; *Dynen* v. *Leach*, 26 L. J. Ex. 221). A master will be liable for the consequences should he employ inexperienced servants (*Bartonshill Coal Company* v. *Reid*, 3 Macq. 266). But he is not responsible to one servant for an accident arising from the negligence of another (*Ib.* ; see also *Priestley* v. *Fowler*, 3 M. & W. 1 ; *Hutchinson* v. *York, Newcastle, and Berwick Railway Company*, 5 Exch. 343 ; 19 L. J. Exch. 296 ; *Wigmore* v. *Jay*, 5 Exch. 354 ; *Skipp* v. *Eastern Counties Railway Company*, 9 Exch. 225 ; *Couch* v. *Steel*, 3 Ell. & B. 402 ; *Griffiths* v. *Gidlow*, 27 L. J. Exch. 404 ; *Tarrant* v. *Webb*, 18 C. B. 797 ; 25 L. J. C. P. 261 ; *Searles* v. *Lindsay*, 31 L. J. C. P. 106). Where, a railway train having stopped before arriving at the platform, a passenger was requested by a servant of the company to get out, and in so doing was injured, and recovered damages for such injury on the ground of negligence,—it was held, that the question of negligence was for the jury, in which the Court were not authorised to interfere (*Foy* v. *Brighton Railway Company*, 5 New Reports, 247). Any persons by carelessness or neglect directly causing the death of another is guilty of manslaughter (*R.* v. *Haines*, 2 C. & Kir. 368 ; *R.* v. *Barrett*, 2 C. & Kir. 343 ; *R.* v. *Hughes*, 7 Cox C. C. 301 ; *R.* v. *Lowe*, 4 Cox C. C. 449). Errors of judgment and inadvertence, however, will not fall within this rule, and the negligence must be the immediate cause of accident (see *R.* v. *Bennett*, note, p. 146 ; see also other cases, note, p. 136).

## REGULATION OF BAKEHOUSES.

### BAKEHOUSES REGULATION ACT.

By the Bakehouses Regulation Act, no person under the age of eighteen is to be employed in any Bakehouse between 9 P.M. and 5A.M.; penalty on the occupier for contravention, not exceeding 2*l.* for the first offence, 5*l.* second, and 1*l.* per day up to 10*l.* for third and every subsequent offence (26 & 27 Vict. c. 40, s. 3). In places having upwards of 5000 inhabitants, the inside walls, ceilings, and passages of every Bakehouse are to be painted with three coats of paint, at least once in every seven years, and washed with hot water and soap once at least in every six months—or if not painted, such places shall be limewashed once at least in every six months. And every Bakehouse, wherever situate, must be kept in a cleanly state, provided with proper means for effectual ventilation, and be free from effluvium from any drain, privy, or other nuisance, under a penalty of not exceeding 5*l.*, and 1*l.* per day for continuance or neglect of order of the court as therein prescribed (s. 4). In places having upwards of 5000 inhabitants, no part of any building containing a Bakehouse, is to be used as a sleeping-place on the same floor, unless separated by a partition from the floor to the ceiling, with an external glazed window at least nine superficial feet in area, of which at least 4½ feet are made to open for ventilation, under a penalty of 1*l.* for first, and 5*l.* for every subsequent offence (s. 5). It shall be the duty of the Local Authority (under the several Nuisances Acts) [See "Constitution of Local Authorities"] to enforce the provisions of this Act; for which purpose, any Officer of Health, Inspector of Nuisances, or other officer appointed, may enter and inspect any Bakehouse at all times during the hours of baking; penalty for non-admission, 20*l.*, and in case of refusal such officer

may apply to any Justice for a warrant authorising him, accompanied by a police constable, to enter into any such Bakehouse for the purpose of examining the same (s. 6). Expenses incurred by the Local Authority to be defrayed out of rates (s. 7). Penalties recoverable as directed (ss. 8, 9),

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## PROTECTION FROM EXPLOSION AND FIRE.

### ACCIDENTS FROM GUNPOWDER.

With a view to the Prevention of Accidents from Gunpowder and other Explosive substances, it is enacted (23 & 24 Vict. c. 139) that no manufacture of Gunpowder shall be carried on except in Mills and other places duly licensed for that purpose; the quantity of Powder or materials at one time under any single pair of millstones or rollers is not to exceed 50 lb. as respects sporting or Government Powder, and 60 lb. as respects inferior Powders; and every Mill must be provided with a charge-house for storage, properly constructed of stone or brick, at a safe distance from such Mill; the quantity of Powder under pressure at any one time not to exceed 10 cwt.; the quantity to be corned or granulated at any one time not to exceed 12 cwt.; the quantity to be dried at one time and place not to exceed 50 cwt.; the quantities at any one time in any press-house or corning-house not to exceed 20 cwt. and 24 cwt. respectively, and the quantity in any drying-house not to be more than necessary for immediate supply and work,—any building used with such press-house, corning-house, drying-house, &c., to be deemed part thereof, except Expense Magazines of stone or brick at least forty yards from every such house, save only the stove in which dried Powder may be cooling. In addition to Expense Magazines a sufficient Store Magazine, at least 140 yards distant from the Mill, &c., must be had for the safe keeping of all Powder, as soon as it can be

conveniently removed, such Store Magazines to be duly licensed, and to be provided with lightning conductors (s. 2). The Secretary of State may authorise the continuance or erection of Magazines within the prescribed distances (s. 3). All Gunpowder kept in contravention will be forfeited, and in addition the offender is to forfeit for every offence a sum not exceeding 2*s.* for every pound of Powder so forfeited. Penalty for neglect to provide Store Magazine at proper distance not exceeding 25*l.* for every month during manufacture, and for neglect to remove finished Powder to such Magazine not exceeding 5*l.* for every day during continuance of offence (s. 4). No Charcoal is to be kept within twenty yards of any Mill, house, or Magazine used for making or storing Powder, under penalty not exceeding 5*l.*, or the like sum for every week during which such Charcoal is so kept (s. 5). No manufacture of loaded Percussion Caps, Ammunition, Fireworks, Fulminating Mercury or other preparation or composition of an Explosive nature can be carried on without license (*a*); nor are Percussion Caps or Fireworks to be made within 50 yards, nor Ammunition or Fulminating Mercury, &c., within 100 yards of any dwelling-house or building, in which persons not connected with the same are employed: no Ammunition containing more than 5 lb. of Gunpowder, or Fireworks containing more than 10 lb. of Explosive Compound, or Fulminating Mercury, &c., more than 1 oz. dry or 8 oz. mixed with 25 per cent. of water, can be kept in any unlicensed place, nor are they to be kept in excess of the quantities specified in the license: the mixing the composition for Percussion Caps must be in a building not less than twenty yards from any other workshop, and not more than 5 lb. of Cap composition is at any one time to be in such building;

(*a*) Where the manufac'ure of fireworks had been illegally carried on, and by the negligence of a servant the death of a person was caused, the master was convicted of manslaughter; but, on appeal, it was held, that the conviction could not be sustained, because the death had not been occasioned by the unlawful proceeding alone (in which case the conviction would be right), but by the act of somebody else in addition (*R.* v. *Bennett*, 8 Cox C. C. 74).

except in the preparation of Cap composition no Fulminating Mercury shall be kept in any such building, unless mixed with at least 20 per cent. of water; the loading of Percussion Caps is to be where no other Explosive material is used or kept, and not more than 24 oz. of composition is at any one time to be in the building where such loading is performed: the charging of Cartridges or Fireworks must be in a building not less than twenty yards from the other workshops connected with the manufacture, and as regards Cartridges not more than 50 lb. of powder, loose or in Cartridges, or any Explosive power equivalent to more than 50 lb. of Powder, or as regards Fireworks not more than 30 lb. of Explosive composition equivalent to 30 lb. of Powder, is at any one time to be in any workshop so connected: the manufacture of Fireworks containing Detonating or other composition more easily ignited than Powder, must be not less than thirty yards from the other workshops, and no more than 10 lb. of such composition is at any one time to be in any building; and there shall be a Magazine not less than fifty yards from any such workshop for keeping the Explosive materials, Cartridges or Fireworks (s. 6) (*a*). All such articles kept in excess will be forfeited, and every person acting in contravention is, in addition, to forfeit not exceeding 10*l.* for every offence (s. 7). No person can sell Fireworks without a license, nor to any person apparently under sixteen years of age, under a penalty not exceeding 5*l.* (s. 8). The like penalty for throwing any Firework in any thoroughfare or public place (s. 9). Justices (in petty sessions—24 & 25 Vict. c. 130, s. 1; or, in Dublin, any two divisional Police Magistrates—25 & 26 Vict. c. 98, s. 2) may license Gunpowder Mills and Magazines as may appear to them proper (s. 10). Also places for the making of other Explosive compositions, *vide supra*, and may determine the quantities to be kept, and grant licenses to sell

(*a*) Where fog signals made with gunpowder were manufactured and kept in an unlicensed house, it was held, this was a violation of the 23 & 24 Vict. ss. 6, 7, such being an "explosive power" (*Bliss* v. *Lilley*, 1 New Reports, 22).

Fireworks (s. 11). Fourteen days' notice in writing of the application for such license to be given to a Churchwarden or Overseer in England, Schoolmaster or Session Clerk in Scotland, or Clerk of the Union in Ireland; such notice also to be affixed to every church and chapel ten days previously (s. 12). Justices may prescribe precautions to be observed as conditions of such license (s. 13). On refusal of Justices to grant license the Secretary of State may grant the same, or modify conditions (s. 14). Owners of mills, &c., may make precautionary rules to be observed by their workmen (s. 15). Penalty not exceeding 5*l.* for violation of rules or doing any act tending to cause an explosion, and the offender may be apprehended without warrant (s. 16). The Secretary of State may appoint an Inspector to examine such Mills or places, with power to enter without notice: penalty for obstruction not exceeding 5*l.* (s. 17). No dealer in Gunpowder or manufacturer of Cartridges, Fireworks, &c. (or safety Fuzes—24 & 25 Vict. c. 130, s. 4), may keep at any one time more than 200 lb. of Powder, and, not being a dealer or manufacturer, more than 50 lb., in any house (*a*), &c., or adjoining building, or on any river, &c., except loading or unloading within three miles of London or Westminster, or one mile of any Borough or Market Town, or two miles of any Palace or Gunpowder Magazine belonging to the Crown, or half-a-mile of any parish Church, nor elsewhere, except in Mills, &c., lawfully used for making or keeping greater quantities, and all Gunpowder kept in excess will be forfeited, and every offender is to forfeit not exceeding 2*s.* for every pound kept beyond the allowed quantity (s. 18). Any person may keep exclusively for any mine, quarry, or colliery (or for the manufacture of safety

(*a*) In the case of *Biggs* v. *Mitchell*, 31 L. J. M. C. 163, it was held, the mere having in one's possession for a temporary purpose, more than the specified quantity of gunpowder, did not necessarily bring the case within the penalties of the Act 12 Geo. 3, c. 61, s. 11, the defendant being a carrier warehousing gunpowder, *in transitu*, for a reasonable time as a mere halting place. This Act is now repealed by 23 & 24 Vict. c. 139, which however, by s. 18, re-enacts the provisions of s. 11 in the former statute. See note, p. 151.

Fuzes—24 & 25 Vict. c. 130, s. 4), not exceeding 300 lb. in any Magazine within 200 yards of such mine, &c., and not within 200 yards of any inhabited house, without written consent of the occupier; and on like conditions not exceeding 4000 lb. may be so kept in a well-built stone or brick Magazine: conditions may, in certain cases, be modified by the Secretary of State (s. 19). No more than thirty barrels of Powder shall be conveyed by land at one time, or forty barrels in carriages specially constructed, or 100 barrels in a railway carriage, or 500 barrels in any barge or vessel by water within the kingdom, except in vessels for export or import, or going coastwise; each barrel to be properly constructed, and to contain no more than 100 lb., and to be properly covered with wood, painted cloth, tarpaulin or wadmill tilts; and no Powder shall be conveyed in any barge, boat, &c., not having a close deck, which, when loaded, must be covered with raw hides or tarpaulins, and all Gunpowder carried in excess, or in any other manner, may be seized by any person for his own use on conviction of the offender (s. 20).

When any vessel having stale or condemned Powder on board, arrives at the place of landing, no other Gunpowder is to be unloaded or brought to such place for such vessel until the whole or part of the condemned Powder has been carried away; and no greater quantity of other Gunpowder is to be brought down for loading than the part unloaded and taken away, on pain of forfeiture (s. 21). Penalty not exceeding 5*l.* for use of any charcoal, matches, &c., or fire or lighted candle, when the hatches are open, or smoking, or permitting same on board such barge, boat, &c. (s. 22). Penalty for not using diligence in loading or unloading, by land or water, not exceeding 10*l.* (s. 23). Such provisions not to apply to conveyance of quantities under 100 lb. (s. 24). Any Justice may issue warrants for searching any house, Mill, Magazine, &c., in which Gunpowder (or other Explosive compounds—25 & 26 Vict. c. 98, s. 1) is suspected to be made or kept contrary to the statute, which may be immediately seized and removed by the searcher,

who must commence proceedings for the forfeiture thereof within twenty-eight days (s. 25). No vessel on the Thames above Blackwall can have more than 25 lb. of Gunpowder on board (except for the service of the Crown), on pain of forfeiture of the Gunpowder in excess, and not exceeding 2*s.* for every pound above the prescribed quantity (s. 26). Searchers to be appointed by the conservators of the Thames, with like powers as are given to persons searching under the warrant of a Justice (s. 27). Penalties recoverable in a summary manner (s. 28). In Ireland the Lord-Lieutenant is to exercise like powers as the Secretary of State in England (s. 29). Crown Powder Mills and Magazines not within the Act (s. 30). Nor ships, &c., in the navy, &c. (s. 31). Nor to conveyance from vessels below Blackwall, or floating Magazines in the Mersey (s. 33). The Act not to affect provisions with respect to Gunpowder or Fireworks in any Police Act in force within the kingdom (s. 35). Every Superintendent or Inspector of Metropolitan Police may enter and search any vessel (except her Majesty's) in the Thames, docks, &c., and seize, remove, and detain unlawful quantities of Gunpowder therein, in like manner as persons under warrant of a Justice (2 & 3 Vict. c. 47). Any Justice may issue a warrant for searching any place or vessel in which Gunpowder or other dangerous or noxious substance is suspected to be made or kept for the purpose of being used in committing malicious injuries to persons or property; and every person acting under such warrant has the same powers of seizing, removing, and detaining any such substances which are given to persons searching for unlawful quantities of Gunpowder under a warrant of a Justice under the Gunpowder Act (9 & 10 Vict. c. 25). The last-mentioned powers continued by this Act (23 & 24 Vict. c. 139, s. 36).

Any person destroying or damaging any building by the explosion of Gunpowder or other Explosive substance, with intent to murder, is liable to penal servitude for life, or not less than three years, or imprisonment not exceeding

two years, with or without hard labour and solitary confinement (24 & 25 Vict. c. 100, s. 12). For doing grievous bodily harm in like manner, the like punishments, and if a male under sixteen with or without whipping (s. 28). The like punishments for causing Gunpowder to explode, or sending any Explosive substance, or throwing Corrosive fluid on any person (s. 29). For placing any such Explosive substance near any building, &c., with intent, &c., penal servitude not exceeding fourteen, nor less than three years, or the like imprisonment, &c. (s. 30). Having or making Gunpowder, &c., for the purpose of any of the above felonies, the like imprisonment, &c. (s. 64). For discovery of which search of suspected places may be made under warrant of any Justice (s. 65).

## STORAGE OF PETROLEUM.

For the purpose of guarding against any unnecessary risk of accident in the keeping of Petroleum, defined by the Act, 25 & 26 Vict. c. 66, to include any product thereof that shall give off an inflammable vapour, at a temperature of less than 100 deg. Fahr. (s. 1), it is enacted that every vessel carrying Petroleum, on entering any harbour within the United Kingdom, shall conform to such regulations as to the place at which she is to be moored as may be issued by the Harbour Authority; for contravention of which the owner or master will incur a penalty not exceeding 20*l.* for each day, and the Harbour Master may cause such vessel to be removed at the expense of the owner (s. 2). Not more than forty gallons of Petroleum is to be kept within fifty yards of a dwelling-house(*a*), or building in which goods are stored, unless under license from the Corporation in any Borough, Metropolitan Board of Works in the

(*a*) The keeping of large quantities of inflammable substances dangerous to property is an indictable nuisance, *R.* v. *Lister & Biggs*, 1 Dears & B., C. C. 209 (*Naphtha*). The Court will also grant an injunction in such cases, *Crowder* v. *Tinkler*, 19 Ves. 617 (*Gunpowder*); *Hepburn* v. *Lordan*, 5 New Reports, 301 (*Jute*).

Metropolis out of the City, Town Improvement Commissioners or Trustees (if any), or the Justices in petty sessions. Any Petroleum so kept in contravention to be forfeited, and the occupier of the premises to incur a penalty not exceeding 20*l.* a day (ss. 3, 4). Any two of the persons constituting the Local Authority may grant a license; but conditions may be annexed, any violation of which will cancel the license (s. 5). Appeal to the Secretary of State in Great Britain, or Lord-Lieutenant in Ireland, in case such license be refused, or against conditions, who may grant license, or modify conditions (s. 6). Penalties recoverable before two Justices as therein set forth (ss. 7, 8). Petroleum may be searched for in the same manner as Gunpowder under 23 & 24 Vict. c. 139 (*vide supra*), s. 9. Powers to be in addition to previously existing powers, or as to penalty in respect of a nuisance (s. 10).

### PROTECTION OF CHIMNEY-SWEEPERS.

To put an end to the cruelty formerly practised upon children employed by Chimney-Sweepers, usually called climbing-boys, it is enacted by the Chimney-Sweepers Act, that any person who compels, or knowingly allows, any person under the age of twenty-one years to ascend or descend a Chimney, or enter a flue for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein, shall be liable to a penalty not exceeding 10*l.* (3 & 4 Vict. c. 85, s. 2), or imprisonment not exceeding six months, with or without hard labour (27 & 28 Vict. c. 37, ss. 9 and 11). No Child under ten years old is to be employed to assist in doing any work in the business of a Chimney-Sweeper elsewhere than within the House, Place of business, or Yard of such Chimney-Sweeper (27 & 28 Vict. c. 37, s. 6). No Chimney-Sweeper shall allow any person under sixteen years old under his control to enter any house for the purpose of sweeping, cleaning, or coring any chimney, or extinguishing fire in any Chimney therein, or to be therein while he is him-

self so employed (s. 7), under penalty for either offence not exceeding 10*l.* (s. 8). In any case the proof of age shall lie on the defendant (s. 10). No child under sixteen years shall be apprenticed to a Chimney-Sweeper, and every such indenture is declared void (*a*) (3 & 4 Vict. c. 85, s. 3) (*b*). All partitions between any Chimney or flue to be built or rebuilt must be of brick or stone at least equal to half a brick in thickness, of sound materials, and well cemented within; and every Chimney or flue thereafter to be built in any wall of greater length than four feet out of the wall, not being a circular Chimney, or flue twelve inches in diameter, must be in every section of the same not less than fourteen inches by nine inches; and no Chimney, &c., is to have any angle therein less obtuse than 120 degrees; and every projecting angle in any Chimney, &c., is to be rounded off at least four inches, upon pain of forfeiture by every master builder who causes to be made such Chimney, of not less than 10*l.*, nor exceeding 50*l.*: Provided that Chimneys may be built at angles with each other of 90 degrees and more, such Chimneys having proper doors or openings not less than six inches square (s. 6). Penalties, on conviction before two Justices, to be levied and applied in manner prescribed, subject to appeal to the Quarter Sessions (ss. 7 to 12).

### SAFETY FROM FIRE.

In Districts where the Public Health and Local Government Acts are applied, or places under any Local Act with which the provisions of the Police Clauses Act with respect to Fires

(*a*) By 24 & 25 Vict. c. 100, it is enacted, that any person wilfully neglecting to provide any apprentice or servant necessary food, clothing, or lodging, or causing the same any bodily harm, so that life or health be endangered or permanently injured, or exposing any child under two years with like effect, shall be liable to penal servitude for three years, or imprisonment, not exceeding two years, with or without hard labour (ss. 26, 27).

(*b*) In *R.* v. *Epsom*, 24 L. J. M. C. 119, it was held, that a child might voluntarily bind himself apprentice to a chimney-sweeper, provided he be in fact above eight years old.

are incorporated, any person wilfully setting fire to any Chimney is liable to a penalty not exceeding 5*l.*, but not thereby to be exempted from indictment for felony (10 & 11 Vict. c. 89, s. 30). Penalty not exceeding 10*s.* for carelessness, whereby any Chimney accidentally catch fire (s. 31). The Local Board of Health may provide Fire-Engines, buckets, pipes, escapes, &c., and employ Firemen (s. 32); and may send the same beyond the district, at the expense of the owner of the premises on fire, to be determined by two Justices (s. 33). The Board must also cause Fire-plugs, with all necessary works and Water in connection therewith, to be provided and maintained, and indicate the situation thereof on the neighbouring walls, &c. (10 & 11 Vict. c. 34, s. 124).

Under the Metropolitan Building Act (18 & 19 Vict. c. 122, s. 109), the provisions of the 14 Geo. 3, c. 78, which guard against fire within the City of London and the Bills of Mortality, &c., are expressly continued. By the last-named Act it is provided that Fire-Engines and ladders shall be kept in certain known places; fire-plugs fixed on the mains; and marks placed to indicate where such plugs are to be found, with keys to open the same (s. 74). Engines and ladders to be kept by every parish under penalty on the Churchwardens for default (s. 75). Turncocks to be rewarded for early supply of water at fires (s. 76). The expenses are to be paid out of the Poor Rates (s. 81). Insurance Companies may lay out insurance in rebuilding houses destroyed by fire (s. 83). Servants by negligence causing any buildings to be fired liable to forfeit 100*l.*, and in default to be imprisoned with hard labour for the space of eighteen months (s. 84).

# FOOD AND POISON.

## MANUFACTURE OF BREAD.

### ADULTERATION OF BREAD ACT.

With a view to prevent injury to health by the improper adulteration of Bread, it is provided by the 6 & 7 Will. 4, c. 37 (practically extending the 3 Geo. 4, c. 106, which contains similar provisions, within the bills of mortality and ten miles of the Royal Exchange), that beyond the bills of mortality and ten miles from the Royal Exchange, no Baker shall use any mixture or ingredient in the making of Bread for sale other than flour or meal of wheat, barley, rye, oats, buck-wheat, Indian-corn, peas, beans, rice, or potatoes, with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast (s. 2), on any pretence, under a penalty for every offence not exceeding 10*l.* nor less than 5*l.*, or, in default, imprisonment not exceeding six months; and the offender's name may be published in the newspaper (s. 8). Penalty for adulterating corn-meal or flour, or for selling flour of one kind of grain as the flour of another sort of grain, not exceeding 20*l.* nor less than 5*l.* (s. 9). All Bread made wholly or partly of potatoes, or any corn or grain other than wheat, is to be marked with a large roman M, under penalty of 10*s.* for every pound sold without being so marked (s. 10). Justices may cause premises to be searched for any ingredient intended for adulteration, and seize any meal, flour, dough, or bread, deemed to have been adulterated,

and dispose of the same at their discretion (s. 11). Penalty on any such articles being found, not exceeding 10*l.* nor less than 40*s.* for the first offence, 5*l.* for the second, and 10*l.* for every subsequent offence, or, in default, not exceeding six months' imprisonment. And the offender's name may be published in the newspapers (s. 12). Penalties for obstructing search, mode of proceeding for recovery thereof, &c. (ss. 13 to 32).

The Local Authority, under the Nuisances Act, may enter any premises at all reasonable hours to inspect any fruit, vegetables, corn, bread, flour, &c. (18 & 19 Vict. c. 121, s. 11). [See "Diseased Meat."]

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## ADULTERATION OF FOOD AND DRINK.

### FOOD ANALYSIS ACT.

By the 23 & 24 Vict. c. 84, every person who sells any article of Food or Drink with which, to the knowledge of such person, any ingredient injurious to health, &c., has been mixed, or sells as pure any such article Adulterated or not pure, shall, on summary conviction, forfeit not exceeding 5*l.* and costs; and on repetition of the offence, offender's name may be published at his expense in the newspapers (s. 1). The Local Authorities (*a*), subject to the approval of the Secretary of State, and in Ireland of the Lord-Lieutenant, may appoint persons possessed of competent medical, chemical, and microscopical knowledge, as Analysts of all articles of Food and Drink purchased within their districts (s. 2). Notice by the purchaser of his intention to have the Analysis to be given to the seller, who may attend the Analyst, together with the purchaser (s. 3).

(*a*) The Commissioners of Sewers in the city of London, Vestries and District Boards under the Metropolis Local Management Act, the Court of Quarter Sessions in counties in England and Ireland, the Commissioners of Supply in Scotland, and the Town Council in Boroughs.

Where an Analyst is appointed, any purchaser may have any article analysed on payment of not less than 2*s.* 6*d.*, or more than 10*s.* 6*d.*, and receive a certificate stating whether such article is Adulterated so as to be injurious to the health of persons eating or drinking the same; such certificate to be evidence, and such fee to be part of the costs (s. 4). On complaint, Justices may order such Analysis (s. 5). Appeal to Quarter Sessions (ss. 6, 7). On condemnation of any patented article, a case may be stated for opinion of a Superior Court in lieu of appeal (s. 8). Mode of procedure as under the Nuisances Act, 1855, or Jervis's Act(*a*) in England (s. 9), and the Petty Sessions Acts in Ireland (s. 10), with appeal to Quarter Sessions (s. 11). Common law remedy by Indictment not taken away (s. 13). The Act not to affect the reduction of strength of spirits (s. 14).

## DISEASED MEAT.

### SALE IN MARKETS IN GENERAL.

If any Meat unfit for human food be exposed for sale in any market, &c., or public place, any officer of such market, or constable, or person authorised by the Mayor of the place, or two Justices, or by her Majesty in Council, may seize the same, and report such seizure to the Mayor or any Justice having jurisdiction, who may order the same to be destroyed or otherwise disposed of; and any person offering such Meat for sale, is to forfeit for every offence not exceeding 20*l.* (11 & 12 Vict. c. 107, s. 3). The removal and disposal of Meat likely to propagate infection may be regulated by the Privy Council under the like penalty for offending (s. 4). Penalty for obstructing officers, not exceeding 5*l.*, or in default two months' imprisonment (s. 7). Such penalties and costs recoverable before two Justices (s. 8), leviable by distress (s. 9); imprisonment in default not exceeding three months (s. 10);

(*a*) See note, p. 55. See also 10 Vict. c. 14, s. 15.

appeal to Quarter Sessions (s. 17); Act extended to 1st August, 1864, and the end of the next session by 26 & 27 Vict. c. 95).

PUBLIC HEALTH AND LOCAL GOVERNMENT ACTS.

In any District to which the Public Health and Local Government Acts have been applied, the Inspector of Nuisances may at all reasonable times enter and inspect any shop, stall, &c., used for the sale of meat, poultry, fish, &c., or as a slaughter-house [see "Offensive Trades"], and in case any animal, carcase, meat, poultry, game, flesh, or fish, appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized, and any Justice may upon competent evidence order the same to be destroyed, and the person to whom such belongs, or in whose custody the same is found, shall be liable to a penalty not exceeding 10*l.* for every animal, &c., piece of meat, &c., so found, recoverable before two Justices (11 & 12 Vict. c. 63, s. 63; and see also 10 & 11 Vict. c. 34, s. 131).

NUISANCES REMOVAL ACTS.

The Local Authority [see "Constitution of Local Authorities"] may enter into any premises without notice at all reasonable hours, to inspect any carcase, meat, &c., fish, fruit, &c., corn, bread, or flour (18 & 19 Vict. c. 121, s. 11). The Medical Officer or Inspector of Nuisances may inspect any such article intended for human food, and in case any such appear to him diseased or unwholesome, he may seize and carry the same before a Justice, who may order the same to be destroyed, and the person exposing the same for sale shall be liable to a penalty not exceeding 20*l.*, or three months' imprisonment (26 & 27 Vict. c. 117, s. 2) (*a*). Penalty for obstruction of officers, &c., not exceeding 5*l.* (s. 3).

(*a*) By the City Sewers Amendment Act (see note, p. 37), unwholesome meat within the City of London may be seized and destroyed (s. 27); and cattle are not to be kept in cellars more than eighteen inches below the surface (s. 47). Penalty for exposing unwholesome food for sale (s. 52).

### SALE OF DISEASED CATTLE, ETC.

To prevent the spread of disease among sheep, &c., it is enacted by the 11 & 12 Vict. c. 107, that in case any sheep or lambs infected with *variola ovina*, or any disorder of the like nature, be exposed or brought for sale in any market, fair, or other place, where other animals are commonly exposed for sale, any officer of such market, &c., or constable, or person authorised by the Mayor of the place, or two Justices, or by her Majesty in Council, may seize the same, and report such seizure to the Mayor or any Justice having jurisdiction, who may cause the same, together with any pens, hurdles, troughs, litter, hay, straw, or other articles likely to have been infected thereby, to be forthwith destroyed or otherwise disposed of, and any person bringing any sheep, lambs, oxen, bulls, cows, calves, or other horned cattle into such market, &c., knowing such to be infected with either of such disorders, is to forfeit for every offence not exceeding 20*l.* (s. 1). The like penalty if any person depasture sheep or lambs infected with the said disorder (*variola ovina*) upon any forest, moor, common, &c., open field, roadside, or other unenclosed land (s. 2). The like penalty for like exposure or depasturing of any horse, or other animal, knowing such to be infected with glanders (and provisions incorporated with the above recited Act), by 16 & 17 Vict. c. 62. Any two members of the Privy Council may make Orders for regulating the removal—to or from such places as they may designate—of sheep, cattle, horses, swine, or other animals, or of parts of any animals, or of articles likely to propagate infection; and also for purifying any yard, stable, or place, or any vehicles; also for directing how any of the same, when seized, are to be disposed of; also for causing notice to be given of the appearance of any disorder among sheep, cattle, or other animals, or any other regulations for the purposes of the Act. Offenders against such Orders shall, for every offence, forfeit not exceeding 20*l.*, or such smaller sum as directed by such Order (11 & 12 Vict. c. 107,

s. 4). All Orders under the Act to be twice published in the *Gazette*, within fourteen days of their issue; and also, when applied to any particular place, in some newspaper of the district (s. 5); and to be laid before Parliament, if sitting, within six weeks, otherwise on commencement of the ensuing session (s. 6). Penalty for obstructing officers, not exceeding 5*l.*, or in default two months' imprisonment (s. 7). Such penalties and costs recoverable before two Justices (s. 8), leviable by distress (s. 9). Inprisonment in default, not exceeding three months, and form of proceeding (ss. 10 to 16). Appeal to Quarter Sessions, &c. (ss. 17 to 19). Saving rights of the City of London (s. 21). Act extended to 1st August, 1864, and the end of the next session, by 26 & 27 Vict. c. 95.

### IMPORTATION OF DISEASED CATTLE.

To prevent the Introduction into the United Kingdom of diseased animals from abroad, where infectious diseases prevail among cattle, &c., it is enacted, by the 11 & 12 Vict. c. 105, that her Majesty, by Order in Council, may prohibit the Importation into any port or ports of cattle, sheep, horses, or other animals, either generally or from any place named, for such period as may be deemed necessary for preventing the introduction of any infectious or contagious disorder among such animals in this country (s. 1). In like manner, Regulations may be made for subjecting any such animals to Quarantine, or for causing them to be destroyed on their arrival, or for destroying any hay, fodder, or other article whereby infection or contagion may be conveyed, or generally with respect to the Importation of such animals, in order to prevent the introduction of any such disorder (s. 2). Cattle imported contrary to any such Order in Council to be forfeited, and persons offending liable to penalties imposed by the Customs Acts (s. 3). Such Orders to be twice published in the Gazette, within fourteen days of their issue, and to be laid before Parliament, if sitting, within six weeks, otherwise on commencement of the ensuing session (s. 5).

# POISON.

## SALE OF ARSENIC.

For the purpose of restricting the sale of Arsenic it is enacted by the 14 Vict. c. 13, that every person who sells any Arsenic, Arsenious or Arsenic acid, Arsenite, Arseniate, or other colourless poisonous preparation of Arsenic, except for any prescription from a legally qualified Medical Practitioner, or to any retail dealers upon orders in writing in the ordinary course of wholesale dealing (ss. 5 and 6), shall, before the delivery thereof to the purchaser, enter in a book, in the form prescribed, a statement of such sale, the quantity sold, the purpose for which it is required, the date and the name, address, and occupation of the purchaser, to be signed by the seller and the purchaser, if able to write, and if unable, "cannot write" to be inserted (s. 1). No person is to sell any Arsenic, &c., to any one not known to him, unless in the presence of a witness who is known to the seller, and to whom the purchaser is known, and who signs his name with his address to such entries before the delivery of the Arsenic to the purchaser; nor to any person under full age (s. 2); nor, unless the Arsenic be mixed with soot or indigo in the proportion of at least one ounce of soot or half an ounce of indigo to a pound of Arsenic (*a*), except it be required for some purpose for which such admixture would render it unfit, in a quantity of not less than 10 lb. at any one time (s. 3). Penalty for neglect of any such requirements or for false information, or pretence of knowledge, not exceeding 20*l.* for every offence upon conviction before two Justices (s. 4).

By the 23 Vict. c. 8, s. 2, to administer any Poison or

(a) It would seem highly desirable that the vender of any fluid poison should be required to put the same into a bottle of a particular shape and colour.

noxious thing with intent to injure or annoy any person is a misdemeanor (*a*). Any person causing Poison to be taken, with intent to murder, is liable to penal servitude for life, or not less than three years, or imprisonment not exceeding two years, with or without hard labour and solitary confinement (24 & 25 Vict. c. 100, ss. 11 and 14). For doing grievous bodily harm in like manner, penal servitude not exceeding ten nor less than three years, or not exceeding two years' imprisonment with or without hard labour (s. 23). Administering such with intent to annoy or injure, the like imprisonment or penal servitude for three years (s. 24). Taking or administering any noxious thing or using any instrument to procure Abortion, penal servitude for life, or not less than three years, or imprisonment not exceeding two years, with or without hard labour and solitary confinement (s. 58). Procuring such articles for such purpose (*b*) three years' penal servitude, or not exceeding two years' imprisonment with or without hard labour (s. 59).

(*a*) Cantharides secretly administered held within the Statute (*R.* v. *Wilkins*, 31 L. J. M. C. 72).

(*b*) Where a vegetable decoction of a harmless character had been administered under the pretence that it would procure abortion, it was held, that a conviction under s. 59, 24 & 25 Vict. c. 100, could not be sustained, for it must be proved that the drug supplied is noxious in itself (*R.* v. *Isaacs*, 1 New Reports, 67). It is not necessary, however, that the intention of any one besides the person supplying the noxious drug should be shown. If he intended it to be so used, it is sufficient to support a conviction whether the person receiving it intend so to use it or not (*R.* v. *Hillman*, 3 New Reports, 176).

# MEDICAL CARE.

## PREVENTION OF DISEASES.

### THE DISEASES PREVENTION ACT.

UNDER the Act for the better Prevention of Diseases, Local Authorities [see "Constitution of Local Authorities"] have powers of entry and for executing Regulations and Directions under the Act (18 & 19 Vict. c. 116, s. 4). Such Regulations, &c., to be issued by the Privy Council (21 & 22 Vict. c. 97, s. 1). Whenever any part of England be threatened or is affected by any formidable Epidemic, Endemic, or Contagious Disease, the Privy Council may, by Order, put in force the provisions of the Act for the Prevention of Diseases for not exceeding six months (18 & 19 Vict. c. 116, s. 5), and they may then issue Regulations for the speedy interment of the dead, for house-to-house visitation, and the dispensing of Medical aid (s. 6), which they may revoke or alter (s. 7). Such Regulations to be published in the Gazette (s. 7). The Local Authority shall execute such Directions and Regulations, and appoint such Medical and other Officers [see "Medical Officers"], as may be necessary for the purpose (s. 8), and may provide carriages for the conveyance of sick persons to any Hospital or place of destination (23 & 24 Vict. c. 77, s. 12), and shall direct legal proceedings for violation of such Directions, &c. (18 & 19 Vict. c. 116, s. 9). Every such Order in Council is to be laid before Parliament (s. 10). Such Orders may extend to all parts of the

sea within the jurisdiction of the Admiralty, and Regulations may be issued for purifying and disinfecting ships and providing Medical aid on board (s. 11). Medical Officers to be remunerated by the captains or owners, to be determined by Justices in case of dispute (s. 12). Penalty for obstructing execution of the Act not exceeding 5*l.* (s. 14). The Privy Council may issue Orders with respect to Vaccination [see "Vaccination"] (21 & 22 Vict. c. 97, s. 2). They may direct inquiry to be made concerning the Public Health in any place, &c. (s. 3), and for this purpose are to appoint the Medical Officer of the late General Board of Health to be the Medical Officer of the Council, who is to be paid 1500*l.* a year, and they may also appoint such other persons as they deem necessary for the purposes of the Act (s. 4). Such Medical Officer is to report to the Council in relation to matters concerning the Public Health, and annually as to all proceedings under the Act (s. 5), which is made perpetual by 22 & 23 Vict. c. 3. Such annual Report to be laid before Parliament (s. 6). The Guardians of any union or parish may employ a Medical Officer to inquire and report upon the sanitary state of their union (23 & 24 Vict. c 77, s. 14).

### CONTAGIOUS DISEASES PREVENTION ACT.

By the Act for the prevention of Venereal Disease in the Naval and Military Stations of the Kingdom, it is provided that Hospitals may be certified by an Inspector under direction of the Admiralty and the Secretary of State for War (27 & 28 Vict. c. 85, ss. 4 to 10). On information before a Justice that any woman is a Prostitute, and has a contagious disease, a notice may be issued requiring her to appear before him, and such Justice may thereupon order her to be taken to a certified Hospital for Medical Examination (ss. 11 to 13), where, in case she have such disease, she may be detained for twenty-four hours (s. 14). Any woman may, on receipt of Notice, submit herself voluntarily for Examination with the same consequences (s. 15). Within the twenty-four hours the Medical Authorities of such Hospital are to certify the fact to

a Justice, who may order her detention by them for Medical treatment until discharged, but not longer than three months under any such Order (s. 16). In case of refusal, neglect of regulations, or quitting the Hospital before discharge, such woman may be imprisoned one month for the first, and two months for any subsequent offence (s. 17). Any person knowingly suffering any diseased woman to resort to any House for the purpose of Prostitution shall be liable to a penalty not exceeding 10*l.*, or three months' imprisonment with or without hard labour (s. 18). Regulation of Proceedings before Justices, which need not be in open court (ss. 19 to 21). A Hospital to be certified within fifty miles by Notice in the *Gazette*, before the Act be in operation in any Station (ss. 10 and 22).

## VACCINATION ACTS.

For the encouragement and compelling the practice of Vaccination as a protection from small pox, the Guardians, or where no Guardians the Overseers, of the poor in England and Wales, are directed to contract with the Medical Officers of their unions, &c., or any Medical Practitioner, for the Vaccination of all persons resident in such union, &c., the remuneration to depend on the number successfully Vaccinated (3 & 4 Vict. c. 29, s. 1). The expenses incident to such contracts to be defrayed out of the poor-rates (4 & 5 Vict. c. 32, s. 1). Such Vaccination is not to be considered to be parochial relief (s. 2). In making requisite arrangements in regard to such contracts, &c., Guardians, &c., to conform to regulations to be made by the Poor Law Commissioners (3 & 4 Vict. c. 29, s. 2). Such Medical Contractors to report to such Guardians, &c., the number of persons so Vaccinated, and to make such further report as may be required (s. 3). Copy of any such contract to be sent to the Commissioners (s. 4), and if they shall not annul the same within fourteen days, such contract shall not be liable to be annulled by such Commissioners (s. 5). Such Guardians, &c., to divide their unions, &c., if need be, into convenient districts,

and to appoint convenient places for the performance of Vaccination, and to give notice to all residents of the days and hours of attendance for Vaccination or inspection (16 & 17 Vict. c. 100, s. 1). The Privy Council may issue Regulations for securing the due qualification of persons to be contracted with by the Guardians, &c., for Vaccination, and the efficient performance of Vaccination by persons contracted with, and the expenses of the National Vaccine Establishment are to be defrayed under the direction of the Privy Council (21 & 22 Vict. c. 97, s. 2). The father or mother of every child shall, within three months after birth, or in case of their inability the person having the care of such child, within four months after birth, cause such child to be taken to the Medical Officer for the purpose of being Vaccinated, unless previously Vaccinated by some duly qualified Medical Practitioner, and the Vaccination duly certified (s. 2). On the eighth day following such Vaccination such child to be taken to the Medical Officer for inspection (s. 3). A certificate of such successful Vaccination to be given by such Medical Officer in the form prescribed, a duplicate of which also to be transmitted by him to the Registrar of births of the sub-district, such certificate to be evidence (s. 4). If such Medical Officer deem such child not to be in fit state for Vaccination, he is to give a certificate to that effect in the form prescribed, renewable every two months, until such child be Vaccinated (s. 5). Fee to be paid to the Medical Contractor for every successful Vaccination, at or within two miles of his residence, not less than 1*s.* 6*d.*, and at more than two miles distant, 2*s.* 6*d.* (s. 6). If such Medical Officer deem any child to be unsusceptible of the Vaccine disease, he may give a certificate to that effect in the form prescribed (s. 7). The Registrar in every sub-district is to keep a register of the persons in respect of whose Vaccination he has received a certificate, and is to allow searches to be made therein, and give a certified copy of any entry on payment of 1*s.* for every search, and 6*d.* for certificate (s. 8). Such Registrar, within seven days after the registration of the birth of any child not already Vacci-

nated within his district, to give notice in the form prescribed to the father or mother, &c., to take care that such child be Vaccinated, and of the days, hours, and places at which the Medical Officer will attend for the purpose; and if, after such notice, the father, &c., do not cause such child to be Vaccinated, or do not, on the eighth day following, take such child for inspection, &c., the offender is to forfeit not exceeding 20*s.* (s. 9), recoverable under the 12 Vict. c. 43, s. 12, (*a*) and applicable to the relief of the poor (s. 13). Proceedings for enforcing penalties may be taken at any time during which the parent or guardian is in default (*b*), and the Guardians, &c., may appoint some person to conduct proceedings for enforcing obedience, and as to all expenses incurred by such person, or by any such Registrar or Medical Officer, in enforcing penalties, "if the Justices or Court before whom such proceedings are had certify that such expenses ought to be allowed, such Court or Justices shall ascertain the amount thereof, and such amount shall be payable out of the rates for the relief of the poor of the parish where the person for the time being dwells in respect of whose default or offence the same were instituted; and the Court or Justices shall ascertain the amount of such expenses" (24 & 25

(*a*) See note, p. 55.

(*b*) A parent having been once convicted for neglecting to have his child vaccinated, cannot be a scond time convicted for a continuing neglect.—Cockburn, C. J. : "Sect. 2 of the Act requires the parent or guardian to get the child vaccinated within three or four months of its birth, and it requires that the Registrar shall give notice that this duty must be performed, and if that notice is given and is not complied with, the offence is complete. But the duty prescribed, on the non-performance of which the offence created by the Act arises, is that of not getting the child vaccinated within the prescribed time. And when that offence is once complete, and the person has been punished, the Act has provided no remedy in cases where the parent still neglects. The Registrar can give no fresh notice, and the notice which he gives directs the parent or guardian to bring the child to be vaccinated within three months of its birth. If any other construction of the Act were to be held admissible, it would follow that every day that the parent omitted to get the child vaccinated a new offence would be created, and thus the penalties imposed by the Act would attach every day, and the penalties thus accumulated might amount to a very serious sum, which the Legislature never intended should be the case." (*Pilcher* v. *Stafford*, 3 New Reports, 463.)

Vict. c. 59, s. 2) (*a*). Fee of 3*d.* to the Registrar for each child Vaccinated, in respect of which he has performed his duty, and a minute book of notices to be kept (16 & 17 Vict. c. 100, s. 10). Such books to be supplied by the Registrar-General (s. 11), as well as books required by the Medical Officers, to be delivered to them without payment by the Registrar (21 Vict. c. 25, s. 7).

*Inoculation for Small Pox.*—Any person who attempts to produce, by Inoculation with variolous matter, or by exposure or other means produce, small pox in any person, is, on conviction before any two Justices in petty sessions, for every offence to be imprisoned not exceeding one month (3 & 4 Vict. c. 29, s. 8).

## QUARANTINE ACT.

By the 6 Geo. 4, c. 78 (*b*), repealing all former Acts in relation

(*a*) The Compulsory Vaccination Acts afford an illustration of the inutility of injudicious or excessive legislation. It is argued by numerous persons favourable to Vaccination, that an injurious prejudice is thereby excited in the minds of ignorant persons, and that the spread of enlightenment should be a work of education. These persons quote the dictum of the late Sir Robert Peel, who, when prime minister, declared that to make Vaccination compulsory "would be so opposite to the mental habits of the British people, and to the freedom of opinion in which they rightly gloried," that he could be no party to such compulsion. Such opponents also point out, with reason, that to evade the law it is sufficient for any person either to neglect the registration of the birth, or to leave the neighbourhood on receiving the notice from the Registrar; whilst the fact that the mere certificate of the Public Vaccinator is alone necessary to obtain his fee,—though he may be either ignorant or unskilful,—affords little security for successful operation. On the other hand, the Guardians of the poor decline to charge the rates with proceedings which, after all, may by many be considered tyrannical, and it is noticed that the attempt to coerce has in many localities evoked an active and increasing hostility to the practice of Vaccination itself. Altogether, Compulsory Vaccination has proved practically inoperative, and may speedily become obsolete.

(*b*) It very rarely happens that the cruelties authorised by the Quarantine Act are put in operation, the absurd doctrines which gave rise to such practices having become well-nigh exploded. Instances sometimes occur, and may now and then continue to occur, chiefly in the Colonies, so long as the powers remain unrepealed; but, in truth, this Act has happily become nearly obsolete in practice, so far as England is concerned.

to Quarantine, it is enacted that all vessels having touched at any place from whence it has been declared by the Privy Council probable that the Plague, or other infectious disease, may be brought, and all vessels receiving persons or articles out of any such vessel, and all articles on board such vessels respectively, shall be liable to Quarantine, and be obliged to perform Quarantine as may be directed by the Council (s. 2). Any vessel from America or the West Indies, where Yellow Fever may prevail, may be ordered to anchor before coming into port, to have the state of health of her crew ascertained (s. 3). Certain sorts of goods may be liable to special restrictions (s. 5). Upon emergency the Council may make Orders in respect of any vessel, whether from infected ports or not, arriving under suspicious circumstances (s. 6). If the Plague appear in any vessel within or without the Straits of Gibraltar, the Master is immediately to proceed to such place as the Council appoints, to make known the same to some Officer of the Customs, and await directions without any person going ashore, under a penalty of 100*l.* for disobedience (s. 7). The Commander of any vessel liable to Quarantine, if with a clean bill of health, must hoist the yellow flag, or if a foul bill, a yellow flag with a black ball in the centre, on meeting any other vessel, or within two leagues of the coast, under penalty of 100*l.* (s. 8). If the Plague be on board, under like circumstances a yellow and black flag borne quarterly, to be hoisted under like penalty (s. 9). For improperly hoisting the Quarantine flag, penalty of 50*l.* (s. 10). On the arrival of any vessel, a list of the ports touched at is to be given to the Pilot, under a penalty of 100*l.*, and if vessels from any such place have been declared liable to Quarantine, the Pilot must give information to the Master under like penalty, upon which the signal is to be hoisted accordingly (s. 11). The like formalities, under like penalties, in respect of merchandise; and Pilots conducting any such vessel to any place other than such as may be specially appointed, are liable to a penalty of 200*l.* (s. 12). Penalty for refusing to bring-to any vessel for the

purpose of being interrogated by any Officer of Customs, 100*l.* (s. 13). Authorised Officer to go off to any suspected vessel to make inquiries; penalty for refusal to answer truly, 200*l.* (s. 14). Any vessel liable to Quarantine, not going to the appointed place, may be fired upon, and compelled to go thither. Penalty for neglecting to give information of liability to Quarantine, or to hoist the flag, 300*l.* (s. 15). On arrival at the Quarantine ground the bill of health and log-book of the vessel to be delivered to the Superintendent of Quarantine, or his assistant, under penalty of 100*l.* (s. 16). Any Master refusing to perform Quarantine, or quitting the vessel, or permitting any person to go ashore, is liable to a penalty of 400*l.* Any person breaking Quarantine may be compelled to return on board by force, and subject to a penalty of 300*l.* and six months' imprisonment (s. 17). Persons in Quarantine, or others having intercourse with them, to obey regulations of the Superintendent, under a penalty of 200*l.* (s. 18). Persons escaping from Quarantine may be seized and detained pending directions from the Council (s. 19). Persons communicating with a Quarantine station in violation of Orders from the Council, subject to penalty of 200*l.* (s. 20). Any Officer embezzling goods, or neglecting his duty, subject to a like penalty; deserting his duty, permitting breach of Quarantine, or giving false certificate, declared felony; and for damaging goods in Quarantine he is liable to pay 100*l.* damages and costs to the owner (s. 21). Vessels released from Quarantine not to be under further restraint (ss. 22, 23). Goods in Quarantine to be aired under direction of the Council (s. 24). Forging certificates, &c., declared felony (s. 25). Penalty for removing or receiving articles from Quarantine, 500*l.*; and for conveying such articles, 100*l.* (s. 26). Bond may be required from vessels leaving any infected port in the kingdom not to visit any other ports to be mentioned, under penalty of 200*l.*; like penalty for sailing without such security (s. 27). Consuls, &c., may administer oaths respecting Quarantine (s. 28). Swearing falsely declared perjury (s. 29). Commissioners of

Customs to appoint Superintendents of Quarantine and assistants (s. 30). Recovery of penalties and proceedings (ss. 31 to 37).

## LUNACY ACTS.

By the Common Law, Lunatics are under the special guardianship of the Crown, this part of the prerogative being vested in the Lord Chancellor, to whom it belongs to regulate all matters relating to the custody of Lunatics' estates, as well as the care of their persons. Numerous Statutes have from time to time been passed for the protection of Lunatics. By the 8 & 9 Vict. c. 100, a Commission was appointed, who are empowered to license houses within seven miles of London, Westminster, and Southwark, for the reception and treatment of Lunatics (s. 14). And in other parts of England such licenses may be granted (after report from the Lunacy Commissioners, 25 & 26 Vict. c. 111, s. 14) by the Justices in Quarter Sessions, by whom Visitors are to be appointed (according to the form schedule A, 25 & 26 Vict. c. 111, s. 14), to visit such houses, from time to time, one of such Visitors to be a Medical man, who must have no interest in any such house (ss. 17 to 27, amended by 16 & 17 Vict. c. 96, ss. 1, 2; and 25 & 26 Vict. c. 111, s. 16). A copy of every such license must be sent to the Commissioners (s. 28), to whom returns are to be furnished on any application for a renewal of the license (s. 29). Though such license have expired, so long as patients remain in any such house, the powers of the Commissioners will continue (18 & 19 Vict. c. 105, ss. 9, 18), and any person infringing the license or regulations will be subject to a penalty of 50*l.* (25 & 26 Vict. c. 111, s. 17). Such licenses may be revoked or their renewal prohibited by the Lord Chancellor (8 & 9 Vict. c. 100, ss. 41, 42). In every Hospital in which Lunatics are received, Regulations (to be approved by the Secretary of State, 16 & 17 Vict, c. 96, s. 30) must be exhibited, and a Medical man be resident (8 & 9 Vict. c. 100, s. 43), who is to be approved by the Commissioners (25 & 26 Vict. c. 111,

s. 16), and be a person registered under the Medical Act (ib. s. 47). To receive two or more Lunatics in any house not licensed is a misdemeanor (8 & 9 Vict. c. 100, s. 44). No person (not a pauper) shall be received into any such house without a statement and two Medical certificates, in form prescribed (16 & 17 Vict. c. 96, ss. 4, 10; also, 25 & 26 Vict. c. 111, ss. 22, 23), except under special circumstances (16 & 17 Vict. c. 96, ss. 5, 6). Additional certificates required in the case of paupers (s. 7). No Medical man interested in any licensed house can sign a certificate of admission therein (s. 12). The giving a false certificate declared a misdemeanor (s. 13). Admission books are required to be duly kept (8 & 9 Vict. c. 100, ss. 50, 51), and notice sent to the Commissioners (s. 52), within one clear day (25 & 26 Vict. c. 111, s. 28), who, with the approval of the Secretary of State, may make Regulations to be observed in such houses (16 & 17 Vict. c. 96, s. 31). Notices also to be transmitted in case of escape, discharge, or death of a patient (ss. 53, 54, 55). The abuse, ill-treatment, or neglect of a patient is a misdemeanor (*a*), as also the unlawful confinement of a sane person, and the Commissioners may direct the prosecution by the Attorney-General of any Offender (s. 56), who is subject to a penalty of 20*l.* (16 & 17 Vict. c. 96, s. 9). Due Medical attendance is prescribed, case-books are to be kept, and visits made by the Commissioners, or other Visitors (ss. 57 to 71; 16 & 17 Vict. c. 96, s. 25; and 25 & 26 Vict. c. 111, ss, 29, 30, 35). The discharge or removal of patients is regulated (ss. 72 to 81; 16 & 17 Vict. c. 96, ss. 19 to 22; and 25 & 26 Vict. c. 111, ss. 31, 43). Patients may be sent to any place for the benefit of their health (s. 86; also 18 & 19 Vict. c. 105, s. 17; and 25 & 26 Vict. c. 111, s. 38). Persons receiving a single Lunatic for

(*a*) Where the brother of a lunatic having taken him under his sole charge, receiving the rents of houses belonging to the lunatic in payment, "wilfully neglected" him: it was held, that he was properly convicted under 16 & 17 Vict. c. 96, s. 9 (*R.* v. *Porter*, 4 New Reports, 71).

profit, are to give notice to the Commissioners, and comply with the prescribed Regulations (ss. 90 to 92 ; 16 & 17 Vict. c. 96, ss. 8, 14 to 18 ; and 25 & 26 Vict. c. 111, ss. 22, 28, and 41, 42). Letters to the Commissioners from patients are to be forwarded unopened (25 & 26 Vict. c. 111, s. 40).

The care of pauper Lunatics is specially provided for by a separate Act (16 & 17 Vict. c. 97), amended by 18 & 19 Vict. c. 105, and 25 & 26 Vict. c. 111, ss. 4 to 13, and 19 to 21, 23, 25 to 28, 30 to 34, 37, 45, and 48 ; the spirit of the leading provisions relative to the care of such patients being similar to the above.

Proceedings for the due Protection of the Property of Lunatics are regulated by the 8 & 9 Vict. c. 100, ss. 94 to 97 ; and 16 & 17 Vict. c. 70, amended by 25 & 26 Vict. c. 86. Under the last-mentioned Act, the inquiry under a Commission of Lunacy must be confined to whether or not the subject of the inquiry is then insane (*a*), and no evidence as to acts or demeanor more than two years previously can be received (s. 3). Issue may be directed to a jury in one of the Superior Courts (s. 4), who may examine the alleged Lunatic prior to their verdict (s. 6). A new trial may be granted (s. 7), and the alleged Lunatic may demand an inquiry by a jury (s. 8).

Visitors appointed by the Lord Chancellor are required to inquire as to the health and comfort of all Lunatics under the special protection of the Court (s. 19), at least four times a year, at intervals not greater than four months (s. 20), and shall report to the Lord Chancellor ; such reports to be annually laid before Parliament (s. 21).

(*a*) The Law will presume that a person is of sound mind until the contrary is proved ; the *onus probandi* lies therefore with the person alleging the insanity (see Shelford on Lunacy, 56, 2nd edit., where the several statutes in relation to lunacy, which are very voluminous, are fully set out). The person or property of any individual cannot be permanently controlled by the Crown without the verdict of a jury (2 Wilson & Shaw, 517). A Commission of Lunacy will not be granted, even where the fact of lunacy is undisputed, unless it be shown that such will tend to the benefit of the lunatic (*Ex parte Tomlinson*, 1 Ves. & Bea. 57 ; *In re J. B.* 1 My. & Cr. 538).

## MEDICAL OFFICERS.

### OFFICERS OF HEALTH.

*Public Health and Local Government Acts.*—For Districts to which the Public Health and Local Government Acts are applied the Local Board of Health are empowered to appoint a legally qualified Medical man to be the Officer of Health, removable at pleasure, to perform such duties as he may be directed (*a*); and the same person may be Officer of Health for two or more Districts; and the Board may pay him such salary as they determine (11 & 12 Vict. c. 63, s. 40). The Officer of Health to certify to the Board as to the filthy or unwholesome condition of any dwelling-house, or that the purification thereof would tend to prevent the spread of disease (s. 60; see also 10 & 11 Vict. c. 34, s. 12). He may inspect any slaughter house, butcher's shop, &c. (ib. s. 131).

*Nuisances and Diseases Prevention Acts.*—Under these Acts the Medical Officer is to certify as to the injurious effect of any effluvia arising from any noxious trade (18 & 19 Vict. c. 121, s. 27), and as to the over-crowding of any house consisting of more than one family so as to be dangerous or prejudicial to health (s. 28). He may also inspect any food, and seize any such as may be found unwholesome (26 & 27 Vict. c. 117, s. 2).

The Local Authority are to appoint Medical Officers for the purpose of carrying out any Regulations issued by the Privy Council, under the Diseases Prevention Act, during the prevalence of Epidemic Disease (18 & 19 Vict. c. 116, s. 8). Any Medical Officer so employed on board any ship to be remunerated by the Captain or owners, the amount to be determined by the Justices in case of dispute (s. 12). The Guardians of any

(*a*) See Minute on duties of Officer of Health, p. 639.

union or parish may employ one of their Medical Officers to make inquiry and report upon the Sanitary state of their union, and pay for the same out of their common fund (23 & 24 Vict. c. 77, s. 14).

*Factories.*—The Factory Acts provide that the strength, &c., of children under thirteen, employed in any Factory, must be certified by a Medical man, and that Certifying Surgeons be appointed, who also are to report in reference to accidents. [See "Factories."]

*Lunacy.*—The Lunacy Acts provide that one at least of the Lunatic Visitors appointed by the Commissioners must be a Medical man; that every Lunatic Hospital is to have a resident Medical Officer. [See "Lunacy"; also as to Medical certificates, &c.]

*The Vaccination Acts* provide that Poor Law Guardians may contract with their Medical Officers for the Vaccination of children in manner prescribed as to inspection, certificates, fees, penalties, &c. [See "Vaccination."]

*The Medical Act* provides that any words importing a recognised Medical Practitioner or member of the Medical profession, when used in any Act of Parliament, must be construed to mean a person Registered under that Act (21 & 22 Vict. c. 90, s. 34). [See "Medical Practitioners."]

*Metropolis Management Acts.*—In the Metropolis every Vestry and District Board of Works shall appoint a Medical Officer of Health to report on the Sanitary state of the District(*a*), the existence of diseases, the ventilation of churches, schools, lodging-houses and public buildings (18 & 19 Vict. c. 120, s. 132), who is to make an annual report (25 & 26 Vict. c. 102, s. 43).

*Regulation of Bakehouses Act.*—The Officer of Health may be instructed by the Local Authority, to enter and inspect any Bakehouse to ascertain the condition thereof (26 & 27 Vict. c. 40, s. 6). [See "Regulation of Bakehouses."]

(*a*) By the City Sewers Act, s. 80 (see note p. 37) the Commissioners are empowered to appoint a Medical Officer of Health for the City of London.

### MEDICAL PRACTITIONERS.

With reference to the qualifications necessary to enable persons to practise the Medical profession, a "General Council of Medical Education and Registration of the United Kingdom" was established by the Medical Act (21 & 22 Vict. c. 90), to consist of twenty-three persons, one member to be chosen by each of seventeen Medical bodies in various parts of the Kingdom, six to be nominated by Her Majesty in Council, and a President elected by such General Council (ss. 1 to 5); branch Councils to act for England, Scotland, and Ireland respectively (s. 6). Members to be appointed for any term not exceeding five years, but eligible for re-appointment (s. 8). The Council to regulate their own meetings (eight to be a quorum), and may appoint an executive committee, three to be a quorum (s. 9). The Council to appoint a Registrar, who is to act as Secretary to the Council, and may also act as Treasurer, also as Registrar, Secretary, and Treasurer of the branch Council for England; clerks and servants also to be appointed at such salaries as the Council or branch Council think fit (s. 10). Branch Councils for Scotland and Ireland to appoint like officers respectively (s. 11). Fees for attendance and expenses to be allowed to members of the Councils (s. 12). Separate accounts to be kept (s. 13). Registers to be correctly kept, names of deceased persons erased, and alterations in addresses or qualifications of registered persons duly made. The Registrar may inquire of any registered person whether he has changed his residence or ceased to practise, and if no answer be returned within six months, the name may be erased, but may be restored by order of the General Council (s. 14). Every fellow, member (*a*), licentiate, or extra licentiate of the Colleges of Physicians of London, Edinburgh, King's and Queen's, Ireland; of Surgeons—England, Edinburgh, Glasgow, Ireland; of Apothecaries' Hall, London and Dublin; doctor, bachelor, or licentiate of Medicine or master in Surgery of

(*a*) See 22 Vict. c. 21, s. 4.

any University of the Kingdom, or licentiate in Surgery in Ireland (*a*); also any Doctor of Medicine by doctorate from the Archbishop of Canterbury, before 1858, or of any foreign or colonial University (on producing satisfactory certificates), practising in the Kingdom prior to 1858, is, on payment of 2*l.* in respect of qualifications obtained prior to 1859, and not exceeding 5*l.* subsequently, entitled to be registered on producing or transmitting to the Registrar of the Branch Council the document conferring the qualification, and the time the same was obtained: provided that the above-named bodies may transmit lists under seal of the persons entitled to be registered and the qualifications granted by them, which, on payment of fees in each case, are to be sufficient without further application (s. 15). Council to make orders for regulating the registers (s. 16). The Bodies above mentioned are to furnish information as to the course of study and generally as to qualifications required by them, to the Council (s. 18). Colleges may, under the direction of the Council, unite in conducting examinations (s. 19). Should the course of study in any College, &c., appear to the Council defective, the Privy Council may suspend the right of registration in respect of any qualification granted by such College (ss. 20 to 22). The Privy Council may prohibit any of the Bodies above mentioned from imposing any theory of Medicine, &c., as a condition of admitting candidates to examination; and in case of non-compliance to suspend the power of such bodies of conferring right to registration (s. 23). Orders of the Privy Council, printed, and signed by the Clerk to the Council, to be received in evidence without proof, &c. (s. 24). The Registrar of any of the Branch Councils to enter in a local register all applications for registration from persons entitled, in the form prescribed, and transmit with all convenient speed to the General Council a certified copy of such entry, which is to be forthwith entered in the general register (s. 25). No qualification to be entered unless the Registrar be satisfied that the claimant is entitled, subject to appeal to the Council

(*a*) 23 Vict. c. 7, s 1.

or Branch Council, by whom incorrect entries may be erased (s. 26). The general register must be annually printed and sold, under the direction of the Council, in the form prescribed, to be called "The Medical Register," which is evidence in all cases of registration or the contrary: provided that a certified copy from the Registrar of any entry in the general or local register is also to be evidence of registration (s. 27). If any of the qualifying bodies strike off any person from their list of members, they are to signify the same to the General Council, by whom, if they see fit, the qualification derived from such body by such member may be erased from the register: provided that no name shall be erased on the ground of having adopted any theory of Medicine or Surgery (s. 28). The name of any person guilty of felony, misdemeanor, or infamous professional conduct, may be erased from the register by the Council (*a*) (s. 29). Higher qualifications to be entered on payment of fee required by the Council (s. 30). Every registered person shall be entitled to practise Medicine or Surgery, or both, as the case may be, in any part of the Queen's dominions, and to recover reasonable charges for advice, visits, medicine, &c., provided that any College of Physicians may pass a Bye-law that none of their members shall be entitled to sue (*b*) in any court, and such Bye-law may be pleaded in bar to any

(*a*) The General Council are the sole judges whether a medical man has been "guilty of infamous conduct in any professional respect" under the Medical Act, and where they have removed the name of a practitioner from the register on such ground, the Court will not review their decision.—Cockburn, C.J.: "We are all agreed that sect. 29 of the Act makes the Medical Council sole judges of whether a party on the register has been guilty of infamous conduct. The Council here have declared that he has been guilty of infamous conduct in respect of the publication of this book [on venereal disorders] which may or may not have warranted the sentence, but inasmuch as those whom the Legislature considered the best judges of such a matter, have given their decision, we cannot interfere (*Ex parte Lamert*, 3 New Reports, 121).

(*b*) By virtue of the power thus given the College of Physicians have passed a Bye-law that "no Fellow of the College shall be entitled to sue for professional aid rendered by him." But this does not extend to Members or Licentiates only. Heretofore it has been held that a physician has in general no legal right of action for his fees, though he might by actual contract, the onus of proof lying upon him. Letters offering to pay and requesting "your account against me"

action by any such member (s. 31). No person shall be entitled to recover any charge for Medical or Surgical advice, &c., or for any medicine which he shall have both prescribed and supplied, unless he shall prove that he is registered (*a*) (s. 32).

&c., are not sufficient to infer such a contract, nor can expenses paid out of pocket in performing journeys for attendances be recovered (*Veitch* v. *Russell*, 3 Q. B. 928, 1 Car. & M. 365). But there is no rule of law to prevent a physician from making an agreement that he shall be remunerated for his advice, and he may therefore recover under such a contract (*Atty.-Gen.* v. *R. C. of Physicians*, 1 J. & H. 561, 30 L. J. Ch. 757). In the case of *Smallcross* v. *Wright* (12 Beav. 558), it was held, that a physician who had attended a patient for many years without payment, on his promise to pay him or leave him an equivalent, had no claim on the testator's estate. And in the case of *Little* v. *Oldaker*, 1 Car. & M. 370, it was held by Lord Denman that a physician could not sue for fees for anything he has done as a physician either in attending or prescribing for a patient, but if he acted as a surgeon or in any other capacity than that of physician he might maintain his action for compensation for what he had done, provided he could show that it was not done by him as a physician; and the fact that he is not paid fees at the times when he is consulted would go to show that he was not acting as a physician. It was held also in *Chorley* v. *Bolcot* (4 T. R. 317), that a physician could not maintain an action for his fees—and in *Lipscombe* v. *Holmes* (2 Camp. 440), where the plaintiff sued for work and labour as a surgeon, though he wrote prescriptions and wrote M.D. after his name.—Lord Ellenborough, C.J., said: "Whether the plaintiff had or had not a diploma is immaterial; whatever he was, if he wrote prescriptions and added M.D. to his name, he must be non-suited." Where a surgeon delivered a bill, leaving blanks for the sums to be paid to him for attendances, it was held that he could recover no more than the employer thought fit to give (*Tuson* v. *Batting*, 3 Esp. N. P. C. 192).

(*a*) Such proof is not necessary in respect of services performed prior to the time fixed for the operation of the statute (*Wright* v. *Greenroyd*, 31 L. J. Q. B. 4, 1 B. & S. 758; *Thistleton* v. *Frewer*, 31 L. J. Exch. 230). In an action for medical attendance brought by A. and B. who were partners, it appeared that A. was registered prior to the first item in the amount, and B. was registered only a few days before the trial: Held, that this was sufficient. —Erle, C. J.: "At the trial each plaintiff proved that he was registered, and had complied with the words of the statute. The object of the statute is to give all persons by the Registry the means of ascertaining who are qualified persons, that they may employ them if they will. Other persons are frequently employed, and they may be so employed, but they cannot sue for their fees. Here the head of the firm was registered, and it could not matter to the patient whether or not he had an assistant who was not registered. How, then, can it matter to the patient whether the assistant is paid by salary, or is paid by a share of the profits and called a partner?" (*Turner* v. *Reynell*, 2 New Reports, 78). Where a foreign medical man resident in England but not registered under the Medical Act, made an agreement with

After 1st of January, 1861 (a), any words importing a recognised Medical Practitioner or member of the Medical profession, when used in any Act of Parliament, are to be construed to mean a person registered under this Act (s. 34). Registered persons to be exempt, if desired, from all corporate parochial, &c., offices, serving on juries, or in the militia (s. 35). Unless registered, no person can hold any Medical appointment in the Military or Naval service or in emigrant or other vessels, or in any Hospital, &c., not supported wholly by voluntary contributions, or in any Lunatic Asylum, Gaol, &c., Workhouse, or other public institution, or to any friendly society, &c., or as a Medical Officer of Health (s. 36). Any foreign Doctor in Medicine who has passed the regular Medical examination in his own country, may act as the resident Medical Officer of any Hospital exclusively for the relief of foreigners, provided he be engaged in no other Medical practice (22 Vict. c. 21, s. 6). No Medical certificate

another practitioner to attend and supply medicines to the crew of a ship in the Thames: it was held, that though he might have recovered payment as salary, not being registered he could not recover for attendance afforded to the crew on the credit of his brother practitioner. *Per curiam*: "The plaintiff being an unregistered medical practitioner, cannot recover for medical attendance afforded to the patients of the defendant on the defendant's credit. The 21 & 22 Vict. c. 90, ss. 31, 32, has no application in the case of an unregistered assistant suing a registered practitioner for his salary; but when the action is brought either against the patients themselves or against anyone who is to pay for medical attendance or medicines prescribed for and supplied to them, the statute applies. Suppose medicines administered by an unregistered practitioner to a patient under a guarantee for payment given by a third person, the statute would be a defence either to the principal debtor or to the surety. Suppose medicines administered to the poor of a parish, or Union, on credit of the overseers of the parish, or the Guardians of the Union, the statute would, in like manner, be a defence, for the case would fall both within the words and spirit of the enactment. The patient does not the less require protection because the paymaster is a third person. In the case now under consideration, the defendant when he engaged the plaintiff to act in his place agreeing to pay for medical attendance afforded by the plaintiff during his absence, was in the situation of an ordinary paymaster, and not the less so because he happened to be a medical man, for the patients during his absence had no benefit from his skill or attendance" (*De la Rosa* v. *Prieto*, 4 New Reports, 463).

(a) 23 Vict. c. 7, s. 3.

required by any former or subsequent Act will be valid, unless signed by a registered person (21 & 22 Vict. c. 90, s. 37). Falsification in any matters relating to the register, a misdemeanor; penalty not exceeding twelve months' imprisonment (s. 38). Fraudulent representations, the like offence, and penalty (s. 39). Any person who falsely pretends to be, or uses the title of, a Physician, &c., or any name, title, or description implying that he is registered or recognised by law as a Physician (*a*), &c., shall, upon summary conviction for any such offence, pay a sum not exceeding 20*l.* (s. 40). Penalties recoverable under 11 & 12 Vict. c. 43, &c. (s. 41). Accounts of the General and Branch Councils to be annually laid before Parliament (s. 44). Every registrar of deaths in the kingdom is to transmit to the Registrar of the General and Branch Councils a certificate of the death of any Medical Practitioner, on receipt of which the name to be erased from the Medical Register (s. 45). The General Council may in certain cases dispense with the provisions of this Act in favour of practitioners abroad, &c., or in the Public Service, or of Chari-

(*a*) To warrant a conviction under the Act there must be evidence that the person falsely pretending to be a surgeon has both acted professionally and for his own profit (*Pedgrift* v. *Chevallier*, 8 C. B. N. S. 240).

If the title be assumed under a supposed right the mistake will not be an offence within the statute (*Ellis* v. *Kelly*, 6 H. & N. 222; 30 L. J. M. C. 35), in which case a registered surgeon, having prefixed "Dr." to his name, produced on complaint a German diploma: Held, that the information was rightly dismissed.

A person jointly occupied a house together with a registered medical practitioner, but was not himself registered. Both names were on the door, and under the names the words "Surgeon-Accoucheur," and "Surgery." The Magistrates on complaint convicted the unregistered practitioner, under the Medical Act, for having "*falsely* pretended to be a surgeon:" Held, that the conviction must be quashed.—Erle, C.J.: "There is nothing upon the face of the case to show that the appellant was not a surgeon in practice before the passing of the Act, nothing to show that he had not a diploma or other qualification, or that he was not recognised by law as a surgeon in a sense that he had a right by law to practise as such and might have enforced payment of fees by action. There is nothing, in short, to negative his having been a duly qualified surgeon before the passing of the Act" (*Pedgrift* v. *Chevallier*, 8 C. B. N. S. 246; 29 L. J. M. C. 225).

table institutions (*a*), &c. (s. 46). A New Charter may be granted to the College of Physicians in England, provided that any member of the colleges of Edinburgh or Ireland practising in England will be entitled to receive the diploma of the said college in England, &c., on payment of a registration fee of 2*l.* to the college (*b*) (s. 47). A Charter may be granted to College of Surgeons, enabling them to test the fitness of persons to practise as Dentists, &c. (s. 48). Charters may be granted to Scotch and Irish Colleges (ss. 49 to 52). Graduates in Medicine of the University of London to have the same privileges as graduates of Oxford or Cambridge (s. 53; 17 & 18 Vict. c. 114). The General Council is to prepare and publish the "British Pharmacopœia" (s. 54), the exclusive right of publishing and selling the same to be vested in them (25 & 26 Vict. c. 91, s. 2); such Pharmacopœia to be substituted for all others throughout the Kingdom, and notices in the several Gazettes of its publication will be sufficient evidence thereof, such Pharmacopœia to be admitted in evidence (s. 3). The

(*a*) Where a medical practitioner had been registered under s. 46 of the Medical Act, by means of fraudulent representations, and had afterwards been adjudged by the General Council guilty of infamous conduct prior to such registration, and had been erased from the register in consequence, it was held that the Council had acted with perfect legality in so erasing his name (*R.* v. *The General Council of Medical Education*, 30 L. J. Q. B. 201).

(*b*) The original charter of the College of Physicians, dated 23rd September, 1518, was confirmed by 14 & 15 Hen. 8, c. 5, extended by 1 Mary, Sess. 2, c. 9, under which no person might practise physic within seven miles of the City of London without a license from the College, nor in other parts of England (unless a graduate physician of Oxford or Cambridge) without letters testimonial from the College. Penalty for so practising, 5*l.* per month. For malpractice the Censors of the College might imprison offenders (8 Rep. 107; Caith. 494). The College might make reasonable Bye-laws for the admission of Fellows, but a licentiate cannot claim to be examined in order to be admitted a Fellow (*R.* v. *College of Physicians*, 7 T. R. 282).

The Bye-laws passed by the College prohibit any Fellow or Member of the College from engaging in trade, dispensing medicines, making any engagement with a chemist or other person for the supply of medicines, or practising medicine or surgery in partnership by deed or otherwise. This does not appear to extend to licentiates only; but no licentiate shall by virtue of his license represent himself as being a Fellow or Member of a College of Physicians; nor may any Fellow, Member, or Licentiate of the College assume the title of Doctor of Medicine, &c., unless he be a Graduate in Medicine of a University.

Act not to affect Druggists or Dentists, or Apothecaries in Ireland duly authorised to dispense medicines, &c. (21 & 22 Vict. c. 90, s. 55). The General Council to be incorporated, and to have perpetual succession and a common seal, with power to hold lands, &c. (25 & 26 Vict. c. 91, s. 1).

### APOTHECARIES ACT.

For regulating the practice of Apothecaries, by the Act 55 Geo. 3, c. 194, reciting and confirming charter of the 6th of December, in the fifteenth year of James the First, granted to the Apothecaries Company, it is enacted that the Society may appoint persons to enter any Apothecary's shop in England or Wales, to search and determine whether the Medicines, &c., therein be wholesome, &c.; who may destroy any that may be found pernicious or hurtful, with power to fine offenders 5*l.* for the first offence, 10*l.* the second, and 20*l.* every subsequent offence (s. 3); such Examiners to be members of the Society, or Apothecaries, in actual practice, of not less than ten years' standing (s. 4). Any Apothecary refusing to compound, or unfaithfully compounding, Medicines, is subject to like penalties and the forfeiture of his certificate (s. 5). Twelve qualified persons to be chosen by the Society, to be called the Court of Examiners, with power to examine all Apothecaries and their assistants, and to grant or refuse certificates, who are to meet once at least in every week for the purpose (ss. 9, 13). No candidate to be admitted unless he have attained twenty-one years, and have served an apprenticeship of not less than five years to an Apothecary, and unless he produce testimonials of a sufficient Medical education, and of good moral conduct (ss. 14, 15). Every candidate is to give notice to the Society, and to present himself for examination at the meeting next succeeding such notice (s. 16). The Society, or Examiners, may appoint five Apothecaries in any county not less than thirty miles from London, who are to meet monthly to examine assistants to Apothecaries (s. 18). Fee for certificate for persons practising within ten miles of London, 10*l.* 10*s.*, and beyond

that distance, 6*l.* 6*s.* (s. 19). Any person practising as an Apothecary without such certificate (*a*) is to forfeit 20*l.*; or, acting as an assistant without certificate, the sum of 5*l.* (s. 20). No Apothecary can recover any charges in any Court of Law, unless he prove he has obtained such certificate (*b*) (s. 21),

(*a*) Where a person who had obtained license to practice, except in the City of London, and paid only for a country certificate, furnished medicines in London, it was held, that he might recover notwithstanding s. 19 of the Act, authorising, for the benefit of the Company, the payment of an extra fee for a London certificate (*Chadwick* v. *Bunning*, R. & M. 306; 2 C. & P. 106; *Young* v. *Geiger*, 6 C. B. 541; 18 L. J. C. P. 40).

(*b*) Any uncertificated person giving medical advice and making up and selling drugs which he has prescribed is liable to these penalties (*Apothecaries Company* v. *Allen*, 4 B. & A. 625; 1 N. & M. 413); *e.g.*, a chemist and druggist who gives and receives payment for medical advice, is not exempt (*Apothecaries Company* v. *Greenough*, 1 Q. B. 799; *Woodward* v. *Ball*, 6 C. & P. 577). A Scotch physician is also liable if he practise as an apothecary without a certificate (*Apothecaries Company* v. *Collins*, 4 B. & A. 604; 5 C. & P. 519; 1 N. & M. 401; *Collins* v. *Carnegie*, 1 A. & E. 695). But a person so practising on his own account, while in the service of an apothecary, is within the exception (*Brown* v. *Robinson*, 1 C. & P. 264); so also is the mere attending to local complaints, without the compounding of medicines, which must be proved (*Thompson* v. *Lewis*, M. & M. 255; 3 C. & P. 483; but see *Apothecaries Company* v. *Greenwood*, 2 B. & A. 708). The prohibition does not apply to medicine given by a surgeon during the treatment of a purely surgical case, though he be not an apothecary (*Apothecaries Company* v. *Lotinga*, 2 M. & R. 495). But he cannot sue for medicines supplied in a purely medical case (*Proud* v. *Mayall*, 3 D. & L. 531). The defendant must prove his qualification (*Apothecaries Company* v. *Bentley*, 5 B. & A. 949; R. & M. 159; 1 C. & P. 538), but need not prove both a certificate and apprenticeship (*Sherwin* v. *Smith*, 1 Bing. 204; 8 Moore, 30). The name on the license is sufficient evidence of identity (*Simpson* v. *Dismore*, 9 M. & W. 47). Where the charges for medicine and attendance are reasonable, an apothecary may recover for both (*Morgan* v. *Allen*, 8 A. & E. 489; *Handy* v. *Houson*, 4 C. & P. 110); the right to charge for attendance being a matter of contract, either express or implied by usage (*Smith* v. *Chambers*, 2 Phill. 221; *Poucher* v. *Norman*, 3 B. & C. 745; 5 D. & R. 648).

In *Simpson* v. *Ralfe*, 4 Tyr. 325, Bayley, B., said: "There was evidence for the jury that the complaints were of a nature requiring surgical aid. Then if the plaintiff attended as a surgeon, the Apothecaries Act does not take away his power to recover for his attendance as such, because he also dispensed medicines. There is no evidence that the medicines were dispensed by the plaintiff as an apothecary, nor does he claim as one. I do not see why he might not dispense medicines as incident to his business, in the course of attending a patient as a surgeon."

But in *Alison* v. *Haydon* (1 M. & P. 588), it was held that a surgeon (not an

but the production of such certificate under seal of the Company will be sufficient evidence of the qualification (14 & 15 Vict. c. 99, s. 8). Persons failing to pass their examination may apply again after an interval of six months, or, in the case of assistants, three months (55 Geo. 3, c. 194, s. 22). The Society to print annually a list of all persons obtaining certificates in each year (s. 23). Application of moneys and proceedings for recovery thereof (ss. 24 to 27). The Act not to affect Chemists and Druggists (s. 28). Saving of rights of Universities of Oxford and Cambridge, and the Colleges of Physicians and Surgeons (s. 29). No action to be brought after six months after the fact committed (s. 30).

An Act (6 Geo. 4, c. 133) for amending this Statute was continued only until the 1st of August, 1826, and has not been since extended.

## PHARMACEUTICAL CHEMISTS.

For the better Protection of the Public, in reference to the

apothecary) could not recover for medicine supplied by him in a case of fever.—Best, C.J., observed: "Whatever medicine may be necessary for the purpose of removing a complaint, which it is the duty of a surgeon to attend to and cure, he might perhaps be allowed to recover for, but he is not entitled to recover unless the medicine he administers be clearly ancillary to his duty as a surgeon." And Park, J., said: "Here the plaintiff, being only qualified to act as a surgeon, has acted in the character of an apothecary, and he cannot be entitled to recover for attendance as such, or for medicines administered to a patient, unless in a case falling expressly within his own department as a surgeon."

Under the 21 & 22 Vict. c. 90, the College of Physicians may license persons to compound and supply drugs which they prescribe, which will not render such licentiates liable to penalties under the Apothecaries Act (*Attorney-General* v. *Royal College of Physicians*, 1 J. & H. 561; 30 L. J. Ch. 757). The Bye-laws of the College prohibit any Licentiate from compounding or dispensing medicines except for patients under his own care.

Surgeons and apothecaries must use a due and reasonable degree of skill and diligence (*Slater* v. *Baker*, 2 Wils. 359; *Seare* v. *Prentice*, 8 East, 348); and if a patient suffer in consequence of gross ill-treatment of his case, the medical man cannot recover his charges (3 Stark. C. N. P. 6; *Black* v. *Lord Braybrooke*, 2 Stark. C. N. P. 8). But if improper remedies are adopted, or unfit medicines are administered, under the advice of a physician, the surgeon or apothecary is at all events entitled to be paid (*Kannen* v. *McMullen*, Peake, 59).

sale of Drugs, the Charter of the "Pharmaceutical Society of Great Britain," which was granted the 18th of February, 1843, was confirmed by the 15 & 16 Vict. c. 56 (s. 1). The Council of the Society are empowered to make Bye-laws, subject to confirmation by a special general meeting, and by the Secretary of State (s. 2). On any election of officers votes may be given by persons residing more than five miles from the General Post-office by means of voting papers, on such being transmitted to the Secretary five clear days prior to the day of election (s. 3). The Council to appoint and pay a Registrar, Deputy-registrar, Clerks, and Officers (s. 4). A complete register, with index, to be kept, of all members, associates, and apprentices or students (s. 5). All then existing members, &c. [30th June, 1852] entitled to be registered (*a*) (s. 6). Certificate of registration to be furnished by the Registrar on payment of one shilling, which (countersigned by the President or two of the Council) to be received in evidence (s. 7). Examiners, duly appointed, are empowered to examine candidates in Latin, Botany, Materia Medica, Pharmaceutical and General Chemistry, and other subjects determined by any Bye-law of the Council, but not to include Medicine, Surgery, or Midwifery; and to grant certificates of competency to exercise the business of Pharmaceutical Chemists, or to be engaged as students, apprentices, or assistants (s. 8). Examiners, with the like powers, to be appointed for Scotland (s. 9). Certificated persons entitled to be registered on payment of fees fixed by the Bye-laws, and every registered person is to be eligible for admission into the Society as member, associate, student, or apprentice respectively, according to the Bye-laws (s. 10). No member of the Medical profession to be registered, or retained on the register (s. 11). Any person,

(*a*) Persons established in business as chemists, &c., prior to 30th June, 1852, and elected members of the Society, are entitled to be registered, though they have not passed the examination, and were not members of the Society before the passing of the Act (*R.* v. *The Registrar of the Pharmaceutical Society*, 5 E. & B. 138).

not being registered, who uses the title of Pharmaceutical Chemist, or assumes or exhibits any name implying that he is registered, or a member of the Society, is liable to a penalty of 5*l.*, recoverable by the Registrar in any small debts court, or in Scotland before the Sheriff (s. 12): Provided that no action be brought after the expiration of six months from the offence, and the party prevailing will recover full costs (s. 13). All penalties recovered to be paid as the Treasury shall direct (s. 14). Falsification of any such register or certificate, obtaining of certificate by fraud, or fraudulent exhibition of such certificate, respectively a misdemeanor (ss. 15, 16).

# APPENDIX.

## STATUTES (*a*).

### 55 Geo. 3, c. 194.

*An Act for better regulating the Practice of Apothecaries throughout England and Wales* (*b*).

55 Geo. 3, c 194.

[12th July, 1815.]

Charter by Jac. 1. to the Apothecaries' Company recited

WHEREAS his Majesty King James the First, by letters patent, under the great seal of Great Britain, bearing date the sixth day of December, in the fifteenth year of his reign, did for himself, his heirs and successors, grant unto William Besse, and divers other persons therein named, and to all and singular other persons whomsoever, brought up and skilful in the art, mystery, or faculty of apothecaries, and exercising the same art, mystery, or faculty, then being freemen of the mystery of grocers of the city of London, or being freemen of any other art, mystery, or faculty in the said city of London (so as they had been brought up and were expert in the art or mystery of apothecaries), that they and all such men of the said art or mystery of apothecaries of and in the said city of London and suburbs of the same, and within seven miles of the said city, might and should be one body corporate and politic, in substance, deed, and name, by the name of the master, wardens, and society of the art and mystery of apothecaries of the city of London; and did ordain and declare, that by the same name they might have perpetual succession, and have, purchase, possess, enjoy, and retain manors, messuages, lands, tenements, liberties, privileges, franchises, jurisdictions, and hereditaments to them and their successors, in fee simple and perpetuity, or for term of year or years, or otherwise howsoever; and also goods and chattels, and all other things soever, of what name, nature, kind, quality, or sort soever they should be; and also that they might grant, demise, alien, assign, and dispose of manors, lands, tenements, and hereditaments, and do and execute all and singular other acts and things by the said name; and that by the said name of master, wardens, and society of the art and mystery of apothecaries of the city of London, they should and might be able to plead and be impleaded, and might have for ever a common seal, and the same seal at their pleasure from time to time might break, change, alter, and new make, as to them should seem best; and his said Majesty did, by his said letters patent, ordain and grant unto the said master, wardens, and society of the art and mystery of apothecaries aforesaid, certain ordinances, rules, and regulations, to be observed, kept, and maintained by them, as in the said charter are more fully expressed: and whereas some of the clauses and provisions contained in the said recited charter, so

(*a*) In all the statutes contained in this Appendix such parts as have been repealed are printed in *italics*.

(*b*) See "Apothecaries," p. 183.

55 GEO. 3, c. 194.

far as the same regard the said society of apothecaries, have been found inadequate for the purposes thereby intended, and it is therefore expedient that the same should be altered, varied, and enlarged, and further and other provisions made: May it therefore please your Majesty that it may be enacted; and be it enacted by the king's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That the said recited charter of the fifteenth year of the reign of his Majesty King James the First, and all and every the powers, provisions, penalties, forfeitures, regulations, clauses, matters, and things therein contained (save and except such part or parts thereof as are hereby altered, varied, or repealed), shall be and the same is and are hereby declared to be in full force and virtue, and shall be as good, valid, and effectual to all intents and purposes whatsoever as if this act had not been made.

Charter confirmed, except as altered by this Act.

II. And be it further enacted, That so much of the said recited charter as directs that the said master and wardens, and their successors, or some or one of them, or some assistants by the master and wardens to be appointed and assigned, at fit and convenient times, and in manner and form convenient and lawful, from time to time as often as to the said master and wardens shall seem expedient, shall and may go and enter into any shop or shops, house or houses, cellar or cellars, of any persons whomsoever, using or exercising the art or mystery of apothecaries, or any part thereof, within the city of London, the liberties or suburbs thereof, or within seven miles of the same city as well within the liberty as without, where any medicines, simple or compound, wares, drugs, receipts, distilled waters, chemical oils, syrups, conserves, lohocks, electuaries, pills, powders, lozenges, oils, ointments, plaisters, or any other things whatsoever which belong or appertain to the art or mystery of apothecaries as is aforesaid, are likely to be found; and to search, survey, and prove if the same medicines, simple or compound, wares, drugs, receipts, distilled waters, chemical oils, syrups, conserves, lohocks, electuaries, pills, powders, lozenges, oils, ointments, plaisters, or any thing or things whatsoever belonging to the art or mystery of apothecaries aforesaid, be and shall be wholesome, medicinable, meet and fit for the cure, health, and ease of his Majesty's subjects; and also so much of the said recited charter as directs, that the aforesaid master and wardens of the mystery aforesaid, and the said assistants for the time being, thereunto nominated and appointed by the master and wardens, and their successors, from time to time, may have, and by virtue of these presents shall have full power and authority to examine and try all and singular persons professing, using, or exercising, or which hereafter shall profess, use, or exercise the art or mystery of apothecaries, or any part thereof, within the aforesaid city of London, the liberties or suburbs thereof, or within seven miles of the same city, as well within liberties as without, touching or concerning their and every of their knowledge, skill, and science in the aforesaid art or mystery of apothecaries, and to remove and prohibit all those from the exercise, use, or practice of the said art or mystery, whom hereafter they shall find either unskilful, ignorant, or insufficient, or obstinate, or refusing to be examined by virtue of these presents, in the art or mystery aforesaid; and also all and singular medicines, wares, drugs, receipts, distilled waters, oils, chemical preparations, syrups, conserves, lohocks, electuaries, pills, powders, lozenges, oils, ointments, and plaisters, and all other things belonging to the aforesaid art, which they shall find unlawful, deceitful, stale, out of use, unwholesome, corrupt, unmedicinable, pernicious, or hurtful, to burn before the offender's doors; and also to lay, impose, and exact mulcts, and other pains and penalties, by fines and amerciaments, upon such offenders, according to their sound discretions,

So much of recited Charter as directs the master and wardens, &c. to enter the shops of apothecaries and to examine their medicines, &c., and to impose penalties, repealed.

and the ordinances by them and their successors so as aforesaid to be made and appointed, shall be and the same is hereby repealed. 55 Geo. 3, c. 194.

III. And be it further enacted, That in lieu and stead thereof, the said master, wardens, and society of apothecaries for the time being, and their successors, or any of the assistants, or any other person or persons properly qualified, as hereinafter is mentioned, to be by the master and wardens nominated and assigned, not being fewer in number than two persons at the least, shall and may from time to time, and at all seasonable and convenient times, in the daytime, as often as to the said master and wardens it shall seem expedient, go and enter into any shop or shops of any person or persons whatever using or exercising the art or mystery of an apothecary in any part of England or Wales, and shall and may search, survey, prove, and determine, if the medicines, simple or compound, wares, drugs, or anything or things whatsoever therein contained, and belonging to the art or mystery of apothecaries aforesaid, be wholesome, meet, and fit for the cure, health, and ease of his Majesty's subjects; and all and every such medicines, wares, drugs, and all other things belonging to the aforesaid art, which they shall find false, unlawful, deceitful, stale, unwholesome, corrupt, pernicious, or hurtful, shall and may burn, or otherwise destroy; and also shall and may report to the master, wardens, and assistants of the said society the name or names of such person or persons as shall be found to have the same in their possession; and the said master, wardens, and assistants shall and may impose and levy the following fines and penalties upon each and every person whose name shall be so reported to them, as hereinafter mentioned; for the first offence the sum of five pounds, for the second offence the sum of ten pounds, and for the third and every other offence the sum of twenty pounds. Master, wardens, &c. empowered to enter shops of apothecaries &c., and examine drugs, &c.

IV. Provided always, and be it enacted, that no person to be by the master, wardens, and assistants for the time being chosen and appointed a member of the Court of Examiners, or to be by the master and wardens nominated and assigned to go and enter into any shop or shops for the purposes aforesaid, within the city of London, the liberties or suburbs thereof, or within thirty miles of the same, shall be deemed to be properly qualified, unless he shall be a member of the society of apothecaries aforesaid, of not less than ten years standing; nor shall any person be deemed to be properly qualified to be nominated and assigned to go and enter into any shop or shops in any other part of England and Wales for the purposes aforesaid, or to be appointed one of the five apothecaries hereinafter mentioned, and directed to be appointed for the purpose of examining assistants to apothecaries in compounding and dispensing medicines, as hereinafter is mentioned, except he shall have been an apothecary in actual practice for not less than ten years at least previously to his being so nominated, or assigned, or appointed. Qualification of persons appointed to examine drugs, &c.

V. And whereas it is the duty of every person using or exercising the art and mystery of an apothecary to prepare with exactness and to dispense such medicines as may be directed for the sick by any physician lawfully licensed to practise physic by the president and commonalty of the faculty of physic in London, or by either of the two Universities of Oxford or Cambridge: Therefore, for the further protection, security, and benefit of his Majesty's subjects, and for the better regulation of the practice of physic throughout England and Wales, be it enacted, That if any person using or exercising the art and mystery of an apothecary shall at any time knowingly, wilfully, and contumaciously refuse to make, mix, compound, prepare, give, apply, or administer, or any way to sell, set on sale, put forth, or put to sale to any person or persons whatever, any medicines, compound medicines, or medicinable compositions, or shall deliberately, or negligently, falsely, unfaithfully, fraudulently, or unduly make, mix, compound, prepare, give, apply, or admi- Penalty on apothecaries refusing to compound, or unfaithfully compounding, medicines prescribed.

55 GEO. 3, c. 194.

nister, or any way sell, set on sale, put forth, or put to sale to any person or persons whatever, any medicines, compound medicines, or medicinable compositions, as directed by any prescription, order, or receipt, signed with the initials, in his own handwriting, of any physician so lawfully licensed to practise physic, such person or persons so offending shall upon complaint made within twenty-one days by such physician, and upon conviction of such offence before any of his Majesty's justices of the peace, unless such offender can show some satisfactory reason, excuse, or justification in this behalf, forfeit, for the first offence, the sum of five pounds, for the second offence, the sum of ten pounds, and for the third offence, he shall forfeit his certificate, and be rendered incapable in future of using or exercising the art and mystery of an apothecary, and be liable to the penalty inflicted by this act upon all who practise as such without a certificate, in the same manner as if such party so convicted had never been furnished with a certificate enabling him to practise as an apothecary; and such offender so deprived of his certificate shall be rendered and deemed incapable in future of receiving and holding any fresh certificate unless the said party so applying for a renewal of his certificate shall faithfully promise and undertake, and give good and sufficient security, that he will not in future be guilty of the like offence.

Master and wardens may appoint deputy.

VI. And be it further enacted, that each and every of them the said master and wardens for the time being may, and they are hereby respectively empowered, by writing under his or their hands, to appoint any one or more of the said Court of Assistants to act as deputy master, or as deputy wardens, as the case may be, in all matters and things done or authorised to be done by the said master, or the said wardens, under and by virtue of the said recited charter or of this act, and to remove such deputy master or deputy wardens so to be appointed from time to time, as the said master or the said wardens shall respectively think proper; and all acts, matters, and things which shall be lawfully done by the said deputy master or deputy wardens so to be appointed as aforesaid, as the case may be, shall be as good, valid, and effectual as if the same were done and performed by the said master and wardens respectively.

The master, wardens, and Society of Apothecaries incorporated by Charter of King James the First, appointed to carry this Act into execution.

VII. And whereas much mischief and inconvenience has arisen from great numbers of persons in many parts of England and Wales exercising the functions of an apothecary, who are wholly ignorant and utterly incompetent to the exercise of such functions, whereby the health and lives of the community are greatly endangered, and it is become necessary that provision should be made for remedying such evils: Be it therefore further enacted, that the said master, wardens, and society of the art and mystery of apothecaries of the city of London, incorporated by the said recited charter of His Majesty King James the First, and their successors, shall be and they are hereby appointed and constituted, directed and empowered, for ever, to superintend the execution of the provisions of this act, and to enforce and carry the several regulations and provisions thereof, in relation to the several persons practising the art or mystery or profession of an apothecary throughout England and Wales, and all other the purposes of this act, into full execution.

No acts of master, wardens, &c. valid, unless done at a meeting, &c.

VIII. And be it further enacted, that no act of the said master, wardens, and society of apothecaries, incorporated as aforesaid, for the carrying any of the powers and provisions of this act into execution, shall be or be deemed to be good or valid, (save and except as to such acts as shall be done by the said master, wardens, and assistants, or other appointed by them, or any of them, as hereinbefore is provided, in pursuance of the powers and authorities hereinbefore given to them to enter into shops to search for, examine, and destroy unwholesome drugs or medicines, and also save and except as to such acts as shall be done by the said Court of Examiners, or the major part of them present, or by the five apothecaries hereinafter mentioned, or the major part of them present

ıance of the authorities hereinafter given to them,) unless the done at some assembly or meeting to be holden by the said master, , and society, in the hall of the said society; and that all the ınd authorities by this act granted to or vested in the said master, , and society, as aforesaid shall and may from time to time be l by the master, wardens, and assistants of the art and mystery ıecaries aforesaid for the time being, or by the major part of them who shall attend at any such assembly or meeting to be holden as l, the number present at such assemblies or meetings not being a thirteen, of which the said master for the time being shall always and all the orders and proceedings of the said master, wardens, ıstants for the time being, or of such major part as aforesaid, shall e same force and effect as if the same were made or done by the said wardens, and society of apothecaries incorporated as aforesaid.

A Court of Examiners to be chosen by the master, wardens, &c.

And be it further enacted, that for the purposes of this act, so far ame regards the examination of apothecaries, and assistants to aries, twelve persons properly qualified, as hereinbefore is mentioned, chosen and appointed by the said master, wardens, and assistants time being, (who are hereby authorised and empowered to choose oint such persons, and to remove or displace them from time to they the said master, wardens, and assistants for the time being em advisable,) and such persons, when so chosen and appointed, seven of them, shall be and be called the Court of Examiners of iety of apothecaries; and such Court of Examiners, or the major them present at any meeting, shall have full power and authority e hereby authorised and empowered to examine all apothecaries, ıistants to apothecaries, throughout England and Wales, and to r refuse such certificates, as hereinafter is mentioned; and such f Examiners, or the major part of them, shall and they are hereby d to meet and assemble in some convenient room in the hall of the iety once at least in every week, for the purpose of such examina- d then and there to examine all persons applying to be examined, y qualified so to be by virtue of this act.

Chairman to be appointed.

ınd be it further enacted, that at any such meetings of the said ers a chairman shall and may be appointed, and when and so often ıall so happen that there shall be an equal number of votes upon question (including the vote of the said chairman), then and in se it shall and may be lawful to and for the said chairman to give ling or decisive vote.

Oath to be taken by examiners.

And be it further enacted, that no person shall be capable of as an examiner under and by virtue of this act until he shall have nd subscribed the following oath:

I. *B.* do solemnly promise and swear (or, being one of the people Quakers, do solemnly affirm), that I will faithfully, impartially, and y, according to the best of my skill and knowledge, execute the epoſed in me by the master, wardens, and society of the art and r of apothecaries of the city of London, as an examiner, in the ation of every person who shall come before me to be examined as itness or qualification to act as an apothecary, or assistant to an ary, as the case may be, and that without favour, affection, pre- or malice. So help me God." Which oath or affirmation the said wardens, or court of assistants, or the major part of them, are authorised and required to administer.

Persons appointed examiners to continue in office for one year.

And be it further enacted, that all persons so to be chosen and ed examiners as aforesaid shall continue in office for the space of ar from the time of their appointment (except in case of death, or emoved or displaced by the said master, wardens, and assistants as id): Provided always, that it shall and may be lawful to and for l master, wardens, and assistants to choose and appoint any such

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person or persons going out of office again to be an examiner o as aforesaid, if they the said master, wardens, and assistants it advisable so to do.

In case of death, &c., others to be appointed.

XIII. And be it further enacted, that in case any person o to be chosen and appointed shall happen to die during the time shall continue to be an examiner or examiners, or be removed as aforesaid, then it shall and may be lawful for the said maste and assistants to choose and appoint any other person or perso qualified, to be an examiner or examiners as aforesaid, in the person or persons so dying, or removed, or displaced as afo every person or persons so chosen and appointed shall continue such time, and no longer, as the person or persons in whose ro he or they shall be so chosen and appointed would have continu

Persons not to practise as apothecaries, &c., without due examination.

XIV. And to prevent any person or persons from practi apothecary without being properly qualified to practise as further enacted, that from and after the first day of August o eight hundred and fifteen it shall not be lawful for any person (except persons already in practice as such) to practise as an a any part of England or Wales, unless he or they shall have bee by the said Court of Examiners, or the major part of them received a certificate of his or their being duly qualified to such from the said Court of Examiners, or the major part aforesaid, who are hereby authorised and required to examin and persons applying to them, for the purpose of ascertaining t abilities of such person or persons in the science and practice and his or their fitness and qualification to practise as an apothec said Court of Examiners, or the major part of them, are hereby either to reject such person or persons, or to grant a certificate of nation (*a*), and of his or their qualification to practise as an a aforesaid: Provided always, that no person shall be admitt examination until he shall have attained the full age of twenty-

Applicants for examination to produce testimonials.

XV. Provided always, and be it enacted, that no perso admitted to any such examination for a certificate to pra apothecary unless he shall have served an apprenticeship of n five years to an apothecary, and unless he shall produce test the satisfaction of the said Court of Examiners, of a sufficie education, and of a good moral conduct.

Persons intending to qualify, to give notice to clerk of the said master, wardens, &c.

XVI. And be it further enacted, that every person intendin himself under the regulations of this act to practise as an a any part of England or Wales shall give notice to the clerk master, wardens, and society of apothecaries as aforesaid, of h so to do, who shall notify the same to the said master, w society of apothecaries as aforesaid; and the person so intendin himself shall present himself at the meeting held by the sa Examiners next succeeding such notice, and shall undergo suc tion by the said Court of Examiners as aforesaid, or at some ot as shall or may be appointed and fixed upon by the said maste and society of apothecaries, or by the said Court of Exami major part of them as aforesaid for that purpose.

Assistant to apothecaries, &c., to be examined.

XVII. And be it further enacted, that from and after the August one thousand eight hundred and fifteen it shall not b any person or persons (except the persons then acting as assis apothecaries as aforesaid, and excepting persons who have act

(*a*) "Every certificate of the qualification of an apothecary, whi port to be under the common seal of the Apothecaries' Company, sha in evidence without proof of the seal or of the authenticity of the ce shall be deemed sufficient proof that the person named therein has b date of the certificate duly qualified to practise as an apothecary in England or Wales" (14 & 15 Vict. c. 99, s. 8).

an apprenticeship of five years to an apothecary,) to act as an assistant to any apothecary, in compounding or dispensing medicines, without undergoing an examination by the said Court of Examiners, or the major part of them, or by five apothecaries so to be appointed as hereinafter is mentioned, and obtaining a certificate of his or their qualification to act as such assistant from the said Court of Examiners, or the major part of them, or from the said five apothecaries, who are hereby authorised and empowered to examine all persons applying to them for that purpose, and to grant a certificate of such fitness and qualification. 55 Geo. 3, c. 194.

XVIII. And be it further enacted, that for the purposes of this act it shall and may be lawful to and for the said master and wardens for the time being, or to and for the said Court of Examiners, by writing under their hands, from time to time to appoint five apothecaries in any county or counties respectively throughout England and Wales, except within the said city of London, the liberties or suburbs thereof, or within thirty miles of the same, to act for such county or counties, or any other county or counties near or adjoining, and to remove or displace them from time to time, as they the said master and wardens, or the said Court of Examiners, shall deem advisable; and such five apothecaries so to be appointed respectively as aforesaid, at any meeting to be held by them as hereinafter mentioned, shall have full power and authority and are hereby authorised and empowered to examine all assistants to apothecaries throughout the county or counties in regard of which such apothecaries shall have been so appointed as aforesaid, and to grant or refuse such certificate to every such assistant to apothecaries, as hereinbefore is authorised in that behalf; and a meeting of the said apothecaries for the purposes aforesaid shall be held monthly in the county town of some one of the counties for which they shall have been appointed to act as aforesaid; and that no act of such apothecaries shall be or be deemed to be good or valid, unless the same be done at some such meeting; and that all the powers and authorities by this act granted to or vested in such five apothecaries shall and may from time to time be exercised by the major part of them, who shall attend at any meeting to be holden as above directed, the number of such apothecaries present at any such meeting not being less than three; and all the orders, directions, and certificates of the major part of such apothecaries present at any such meeting shall have the same force and effect as if the same were made, done, or signed by all the said five apothecaries for the time being; and at every such meeting of the said apothecaries a chairman shall and may be appointed, and when and so often as it shall so happen that there shall be an equal number of votes upon any one question (including the vote of the said chairman), then and in such case it shall and may be lawful to and for the said chairman to give the casting or decisive vote. Power for master and wardens to appoint five apothecaries as examiners for assistants.

XIX. And be it further enacted, that the sum of ten pounds ten shillings shall be paid to the said master, wardens, and society of apothecaries, for every such certificate as aforesaid, on obtaining the same, by every person intending to practise as an apothecary within the city of London, the liberties or suburbs thereof, or within ten miles of the same city, and the sum of six pounds six shillings by every person intending to practise as an apothecary in any other part of England or Wales (except the said city of London, the liberties or suburbs thereof, or within ten miles of the said city); and no person having obtained a certificate to practise as an apothecary in any other part of England or Wales (except the said city of London, the liberties or suburbs thereof, or within ten miles of the said city as aforesaid,) shall be entitled to practise within the said city of London, the liberties or suburbs thereof, or within ten miles of the said city, unless and until he shall have paid to the said master, wardens, and society the further sum of four pounds four shillings, in addition to the said sum of six pounds six shillings so paid by him as Sums to be paid for certificates.

55 GEO. 3, c. 194.

aforesaid, and shall have had endorsed on his said certificate a re the said master, wardens, and society for such additional sur pounds four shillings, and the sum of two pounds two shillings assistant; and the several sums of money arising from the gr such certificates shall be applied in manner hereinafter directed.

Penalty for acting without a certificate.

XX. And be it further enacted, that if any person (except su then actually practising as such) shall, after the said first day o one thousand eight hundred and fifteen, act or practise as an a in any part of England or Wales without having obtained such as aforesaid, every person so offending shall for every such offen and pay the sum of twenty pounds; and if any person (except su then acting as such, and excepting persons who have actually s apprenticeship as aforesaid,) shall, after the said first day of Au thousand eight hundred and fifteen, act as an assistant to any ap to compound and dispense medicines, without having obtain certificate (a) as aforesaid, every person so offending shall for e offence forfeit and pay the sum of five pounds.

Apothecaries not to recover charges unless duly licensed.

XXI. And be it further enacted, that no apothecary shall be a recover any charges claimed by him in any court of law, unless suc cary shall prove on the trial that he was in practice as an apothec to or on the said first day of August one thousand eight hun fifteen, or that he has obtained a certificate to practise as an a from the said master, wardens, and society of apothecaries as afore

Persons, on refusal of certificate to practise as an apothecary, &c., may apply again.

XXII. Provided always, and be it further enacted, that if Court of Examiners, or the major part of them, having exam person or persons applying to qualify himself or themselves to p an apothecary, or if they or the said five apothecaries so to be for any county or counties as aforesaid, having examined any p persons applying to qualify himself or themselves to practis assistant to an apothecary in compounding and dispensing medicin see cause to refuse such certificate as aforesaid to any such p persons so applying to qualify himself or themselves as an apot assistant as aforesaid, yet it shall and may be lawful for such p persons who shall be so refused to apply at any future time to examined, so that such second application by any person or applying to qualify himself or themselves as an apothecary be n six months of such first examination, and so that such second ap by any person or persons applying to qualify himself or themsel assistant be not within three months of such first examination; a such re-examination he or they shall appear to the persons examin then properly qualified, it shall and may be lawful for the said Examiners, or to and for the said five apothecaries in any c counties as aforesaid, to grant such person or persons so apply certificate as aforesaid.

A list of the apothecaries approved by the Court of Examiners to be printed.

XXIII. Provided always, and be it further enacted, that master, wardens, and society of apothecaries do make annually, a to be printed, an exact list of all and every person who shall in t have obtained a certificate to practise as an apothecary, wi respective residences attached to their respective names.

Application of moneys arising from certificates.

XXIV. And be it further enacted, that all and every sum or money which shall be received or arise from the granting of the ce of examination hereinbefore required shall belong to and be appl and disposed of by the said master, wardens, and society of apo as aforesaid, in such manner as they shall from time to time di deem most expedient.

(*Sic.*) Application of moneys

XXV. And be it further enacted, that all sums and sums o arising from conviction and recovery of penalties for offences co

(a) See note, p. 194, also note p. 184.

against the authorities and provisions of this act shall be applied and disposed of in manner following; (viz.) one half thereof to the informer or informers, and one half thereof to the said master, wardens, and society of apothecaries as aforesaid, to be appropriated and disposed of by them in such manner as they shall deem most expedient. 55 Geo. 3, c. 194. arising from penalties.

XXVI. And be it further enacted, that all penalties and forfeitures by virtue of this act imposed (the manner of levying and recovering whereof is not otherwise hereby particularly directed) shall, if such penalties and forfeitures shall exceed the sum of five pounds, be recovered by action or suit at law, in the name of the master, wardens, and society of the art and mystery of apothecaries of the city of London, in any of his Majesty's courts of record in England or Wales, wherein no essoign, protection, or wager at law, or more than one imparlance, shall be allowed; and if such penalty or forfeiture shall amount to less than the sum of five pounds, then the same shall be levied and recovered by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any justice of the peace acting for any county, city, town, or place where the offence shall be committed (which warrant such justice is hereby empowered and required to grant upon the confession of the party or upon the evidence of any credible witness upon oath, and which oath such justice is hereby empowered to administer), and the overplus (if any) of the money arising by such distress and sale shall be returned, upon demand, to the owner of such goods and chattels, after deducting the costs and charges of making, keeping, and selling the distress; and in case sufficient distress shall not be found, or such forfeitures and penalties shall not be paid forthwith, it shall be lawful for such justice, and he is hereby authorised and required, by warrant under his hand and seal, to cause the offender to be committed to the common gaol for the county, city, town, or place where the offence shall be committed, there to remain, without bail or mainprise, for any time not exceeding one calendar month, unless such penalties and forfeitures, and costs shall be sooner fully paid and satisfied. Recovery of fines and penalties.

XXVII. And be it further enacted, that where any distress shall be made for any sum of money to be levied by virtue of this act the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the notice or information, summons, conviction, warrant, or distress, or other proceeding relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any irregularity which shall be afterwards done by the party or parties so distraining, but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case. Distress not unlawful for want of form.

XXVIII. Provided always, and be it further enacted, that nothing in this act contained shall extend or be construed to extend to prejudice or in any way to affect the trade or business of a chemist and druggist, in the buying, preparing, compounding, dispensing, and vending drugs, medicines, and medicinable compounds, wholesale and retail (*a*); but all persons using or exercising the said trade or business, or who shall or may hereafter use or exercise the same, shall and may use, exercise, and carry on the same trade or business in such manner, and as fully and amply, to all intents and purposes, as the same trade or business was used, exercised, or carried on by chemists and druggists before the passing of this act. Act not to affect chemists and druggists.

XXIX. Provided always, and be it further enacted, that nothing in this act contained shall extend or be construed to extend to lessen, prejudice, or defeat, or in anywise to interfere with any of the rights, authorities, privileges, and immunities heretofore vested in and exercised Saving of rights.

(*a*) See note p. 184. *Apothecaries' Co.* v. *Greenough.*

55 Geo. 3, c. 194.

and enjoyed by either of the two Universities of Oxford or Cambr the Royal College of Physicians, the Royal College of Surgeons, or the Society of Apothecaries respectively, other than and except such as or may have been altered, varied, or amended in and by this act, or o person or persons practising as an apothecary previously to the first d August one thousand eight hundred and fifteen, but the said univers royal colleges, and the said society, and all such persons or person have, use, exercise, and enjoy all such rights, authorities, privileges, immunities, save and except as aforesaid, in as full, ample, and bene a manner, to all intents and purposes, as they might have done befor passing of this act, and in case the same had never been passed.

Limitation of actions.

XXX. Provided always, and be it further enacted, that no actio suit shall be brought or prosecuted against any person or persons, boc bodies politic, corporate, or collegiate, for anything done in pursuan this act after six calendar months next after the fact committed, case there shall be a continuation of damages, then after six cale months next after the doing or committing such damage shall have ce and not afterwards; and every such action or suit shall be laid brought in the county where the matter in dispute shall arise, and elsewhere; and the defendant and defendants in every such action or shall or may, at his, her, or their election, plead specially the ge issue, and give this act and the special matter in evidence, at any tri be held thereupon, and that the same was done in pursuance and by authority of this act; and if it shall appear to have been so done, any such action or suit shall have been brought before twenty-one notice shall have been given, or sufficient satisfaction made or tender aforesaid, or shall be brought in any other county or place than as said, then and in every such case the jury shall find for the defenda defendants; and upon such verdict, or if the plaintiff or plaintiffs become nonsuit, or suffer a discontinuance of his, her, or their actic suit, after the defendant or defendants shall have appeared, or if a ve shall pass against the plaintiff or plaintiffs, or if upon demurrer or o wise judgment shall be given against the plaintiff or plaintiffs, the

(*Sic.*)

defendant or defendants shall have double costs, and or recovering re for recovering the same as any defendant hath for recovering costs o in any other cases by law.

Public act.

XXXI. And be it further enacted, that this act shall be deemed taken to be a public act, and shall be judicially taken notice of as by all judges, justices, and others, without being specially pleaded.

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## 6 & 7 Will. 4, c. 37.

6 & 7 W. 4, c. 37.

*An Act to repeal the several Acts now in force relating to B to be sold out of the City of London and the Liberties th and beyond the Weekly Bills of Mortality and Ten Mil the Royal Exchange; and to provide other Regulation the making and Sale of Bread, and for preventing the A teration of Meal, Flour, and Bread, beyond the L aforesaid* (*a*). [28th July, 1

3 Geo. 4, c. 106.

Whereas by an act passed in the third year of the reign of his Majesty King George the Fourth, intituled "An Act to repeal the now in force relating to Bread to be sold in the City of London an

(*a*) See "Manufacture of Bread," p. 155. The provisions of this Act are ide with those contained in 3 Geo. IV. c. 106, within ten miles of the Exchange.

Liberties thereof, and within the Weekly Bills of Mortality and Ten Miles of the Royal Exchange; and to provide other Regulations for the making and Sale of Bread, and preventing the Adulteration of Meal, Flour, and Bread, within the Limits aforesaid," certain regulations and provisions were made relative to the making and selling of bread, and for preventing the adulteration of meal, flour, and bread, within the aforesaid limits, which have been found beneficial to the public as well as to the bakers within the said limits: And whereas it is deemed expedient that the several acts of parliament now in force relating to the making and selling of bread, or to the assize and price thereof, or to the adulteration of meal, flour, or bread, beyond the limits aforesaid, should be altogether repealed, and that in lieu thereof the regulations, provisions, and penalties hereinafter contained, and which are similar to those contained in the said recited act of the third year of the reign of his said late Majesty King George the Fourth, should be substituted: but inasmuch as the purposes aforesaid cannot be effected without the aid and authority of parliament; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of October one thousand eight hundred and thirty-six all and every acts or act of parliament now in force relating to the making and selling of bread, or to the assize and price thereof, or to the punishment of persons who shall adulterate meal, flour, or bread, or who shall sell bread deficient in its due weight, out of the city of London and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the Royal Exchange, be and the same are hereby repealed; and there shall be no longer any assize of bread beyond the limits aforesaid, or any regulation respecting the price thereof.

6 & 7 Will. 4, c. 37.

All acts relating to the making and selling of bread or to the punishment for adulterating meal, &c., out of the city of London and beyond the bills of mortality, repealed.

II. And be it enacted, that it shall and may be lawful for the several bakers or sellers of bread out of the city of London and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the Royal Exchange, to make and sell, or offer for sale, in his, her, or their shop, or to deliver to his, her, or their customer or customers, bread made of flour or meal of wheat, barley, rye, oats, buck wheat, Indian corn, peas, beans, rice, or potatoes, or any of them, and with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, and mixed in such proportions as they shall think fit, and with no other ingredient or matter whatsoever, subject to the regulations hereinafter contained.

Bread made of the articles herein mentioned may be sold.

VIII. And be it enacted, that no baker or other person or persons who shall make bread for sale beyond the limits aforesaid, nor any journeyman or other servant of any such baker or other person, shall at any time or times in the making of bread for sale beyond such limits use any mixture or ingredient whatsoever in the making of such bread, other than and except as hereinbefore mentioned, on any account or under any colour or pretence whatsoever, upon pain that every such person, whether master or journeyman, servant or other person, who shall offend in the premises, and shall be convicted of any such offence by the oath, or in case of a Quaker by affirmation, of one or more credible witness or witnesses, or by his, her, or their own confession, shall for every such offence forfeit and pay any sum not exceeding ten pounds nor less than five pounds, or in default thereof shall, by warrant under the hands and seals of the magistrate or magistrates, justice or justices, before whom such offender shall be convicted, be apprehended and committed to the house of correction or some prison of the city, county, borough, or place where the offence shall have been committed, or the offender or offenders shall be apprehended, there to remain for any time not exceeding six calendar months with or without hard labour from the time of such commitment, unless the penalty shall be sooner paid, as any such magistrate or magistrates, justice or justices, shall think fit and order; and it shall be lawful for the magistrate or

Adulterating bread.

Penalty.

6 & 7 WILL. 4, c. 37.

magistrates, justice or justices before whom any such offender or off shall be convicted to cause the offender's name, place of abode, and to be published in some newspaper which shall be printed or publis or near the city, county, borough, or place where the offence shall been committed, and to defray the expense of publishing the same the money to be forfeited as last mentioned, in case any shall be feited, paid, or recovered.

Names of offenders to be published.

Adulterating corn, meal, or flour.

IX. And be it enacted, that if any person beyond the limits afo shall put into any corn, meal, or flour which shall be ground, dr bolted, or manufactured for sale beyond such limits, either at the t grinding, dressing, bolting, or manufacturing the same, or at any time, any ingredient or mixture whatsoever not being the real and g produce of the corn or grain which shall be so ground; or if any shall beyond the limits aforesaid knowingly sell or offer or expose fo either separately or mixed, any meal or flour of one sort of corn or gr the meal or flour of any other sort of corn or grain, or any ingredient soever mixed with the meal or flour so sold or offered or exposed fo then and in every such case every person so offending shall, upon con before any one or more magistrate or magistrates, justice or justices, city, county, borough, or place where such offence shall have beer mitted, on the oath, or in case of a Quaker by affirmation, of one or credible witness or witnesses, or by his, her, or their own confession, and pay for every such offence any sum not exceeding twenty poun less than five pounds, which such magistrate or magistrates, just justices, before whom any such offender or offenders shall be cor shall think fit and order (a).

Selling flour of one sort of corn as the flour of another sort.

Penalty.

Bread made of mixed meal or flour to be marked with a Roman M.

X. And be it enacted, that every person who shall make for sale, or expose for sale, beyond the limits aforesaid, any bread made wh partially of peas or beans, or potatoes, or of any sort of corn or grain than wheat, shall cause all such bread to be marked with a large M.; and if any person shall at any time beyond the limits aforesaid or sell, or expose for sale, any such bread without such mark as before directed, then and in every such case every person so offending upon conviction in manner hereinafter mentioned, forfeit and pay for pound weight of such bread, and so in proportion for any less qu which shall be so made for sale, or sold or exposed for sale, without so marked as aforesaid, any sum not exceeding ten shillings, as the trate or magistrates, justice or justices, before whom such conviction take place shall from time to time order and adjudge: Provided a that nothing in this act contained shall extend or be construed to to require any bread made of the meal or flour of wheat only, the making of which potato yeast shall be used, to be marked as before is mentioned.

Penalty.

Proviso.

Magistrates or peace officers by their warrants may search a baker's premises, and if any adulterated flour, bread, &c., be found, the same may be seized, and disposed of as herein mentioned.

XI. And be it enacted, that it shall be lawful for any magistr magistrates, justice or justices of the peace, within the limits of respective jurisdictions, and also for any peace officer or officers auth by warrant under the hand and seal or hands and seals of any such trate or magistrates, justice or justices, (and which warrant any such trate or magistrates, justice or justices, is and are hereby empowe grant), at seasonable times in the daytime, to enter into any house shop, stall, bakehouse, bolting house, pastry warehouse, outhou ground of or belonging to any miller, mealman, or baker, or other who shall grind grain, or dress or bolt meal or flour, or make bre reward or sale, beyond the limits aforesaid, and to search or ex whether any mixture or ingredient not the genuine produce of th such meal or flour shall import or ought to be shall have been mi with or put into any meal or flour in the possession of such miller, man, or baker, either in the grinding of any grain at the mill, or

(a) See also "Adulteration of Food and Drink," p. 156.

dressing, bolting, or manufacturing thereof, whereby the purity of any meal or flour is or shall be in anywise adulterated, or whether any mixture or ingredient other than is allowed by this act shall have been mixed up with or put into any dough or bread in the possession of any such baker or other person, whereby any such dough or bread is or shall be in anywise adulterated, and also to search for any mixture or ingredient which may be intended to be used in or for any such adulteration or mixture; and if on any such search it shall appear that any such meal, flour, dough, or bread so found shall have been so adulterated by the person in whose possession it shall then be, or any mixture or ingredient shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal, flour, or bread, then and in every such case it shall be lawful for every such magistrate or magistrates, justice or justices of the peace, or officer or officers authorised as aforesaid respectively, within the limits of their respective jurisdictions, to seize and take any meal, flour, dough, or bread which shall be found in any such search, and deemed to have been adulterated, and all ingredients and mixtures which shall be found and deemed to have been used, or intended to be used, in or for any such adulteration as aforesaid; and such part thereof as shall be seized by any peace officer or officers authorised as aforesaid shall, with all convenient speed after seizure, be carried to the nearest resident magistrate or magistrates, justice or justices of the peace, within the limits of whose jurisdiction the same shall have been so seized; and if any magistrate or magistrates, justice or justices, who shall make any such seizure in pursuance of this act, or to whom any thing so seized under the authority of this act shall be brought, shall adjudge that any such meal, flour, dough, or bread so seized shall have been adulterated by any mixture or ingredient put therein other than is allowed by this act, or shall adjudge that any ingredient or mixture so found as aforesaid shall have been deposited or kept where so found for the purpose of adulterating meal, flour, or bread, then and in any such case every such magistrate or magistrates, justice or justices of the peace, is and are hereby required, within the limits of their respective jurisdictions, to dispose of the same as he or they, in his or their discretion, shall from time to time think proper.

Penalty if ingredients for adulteration of meal or bread are found in any premises

XII. And be it enacted, that every miller, mealman, or baker beyond the limits aforesaid, in whose house, mill, shop, stall, bakehouse, bolting house, pastry warehouse, outhouse, ground, or possession any ingredient or mixture shall be found which shall, after due examination, be adjudged by any magistrate or magistrates, justice or justices of the peace, to have been deposited there for the purpose of being used in adulterating meal, flour, or bread, shall, on being convicted of any such offence, either by his, her, or their own confession, or by the oath, or in case of a Quaker by affirmation, of one or more credible witness or witnesses, forfeit and pay on every such conviction any sum not exceeding ten pounds nor less than forty shillings for the first offence, five pounds for the second offence, and ten pounds for every subsequent offence, or in default of payment thereof shall, by warrant under the hand and seal or hands and seals of the magistrate or magistrates, justice or justices, before whom such offender shall be convicted, be apprehended and committed to the house of correction or some prison of the city, county, or place where the offence shall have been committed, or the offender or offenders shall be apprehended, there to remain for any time not exceeding six calendar months with or without hard labour from the time of such commitment (unless the penalty be sooner paid), as any such magistrate or magistrates, justice or justices, shall think fit and order; and it shall be lawful for the magistrate or magistrates, justice or justices, before whom any such offender shall be convicted to cause the offender's name, place of abode, and offence to be published in some newspaper which shall be printed or published in or near the city, county, borough, or place where the offence shall have been

First offence; Second offence; Subsequent offence.

Names of offenders to be published.

6 & 7 WILL. 4, C. 37.

committed, and to defray the expense of publishing the same out of the money to be forfeited as last mentioned, in case any shall be so forfeited, paid, or recovered.

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## 3 & 4 VICT. C. 29.

3 & 4 VICT. C. 29.

*An Act to extend the Practice of Vaccination (a).*

[23rd July, 1840.]

WHEREAS it is expedient to extend the practice of vaccination: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that

Poor Law Guardians to contract with their medical officers, or other medical practitioners, for vaccination.

from and after the passing of this act it shall be lawful for the guardians of every parish or union, and for the overseers of every parish in which relief to the poor shall not be administered by guardians, in England and Wales, and they are hereby directed, to contract with the medical officers of their several unions or parishes respectively, or with any legally qualified medical practitioner or practitioners, for the vaccination of all persons resident in such unions or parishes respectively: Provided always, that it shall be a condition of every such contract that the amount of the remuneration to be received under the same shall depend on the number of persons who, not having been previously successfully vaccinated, shall be successfully vaccinated by such medical officers or practitioners respectively so contracting.

uardians to conform to the regulations of the Poor Law Commissioners.

II. And be it further enacted, that in making such arrangements as may be required for the execution of this act, such guardians and overseers, and all other officers engaged in the administration of the laws for the relief of the poor, shall conform to the regulations which may from time to time be issued by the Poor Law Commissioners in that behalf, which regulations the said commissioners are hereby authorised and required to make and issue.

Medical officers to report the number of persons vaccinated, &c.

III. And be it further enacted, that such medical officers or practitioners shall make a report to such guardians or overseers from time to time of the number of persons successfully vaccinated by them respectively, and shall make such further report, with respect to the persons so vaccinated, as such guardians and overseers, under the direction of the Poor Law Commissioners, shall require.

Copies of contracts to be sent to commissioners.

IV. And be it enacted, that such guardians or overseers shall forthwith, after the conclusion of any such contract as before mentioned, transmit a copy thereof to the Poor Law Commissioners.

Annulling of contracts.

V. And be it enacted, that if such commissioners shall not annul such contract within fourteen days from the receipt thereof such contract shall thenceforth not be liable to be annulled by such commissioners.

Guardians of poor law unions in Ireland to divide their unions into districts, &c.

VI. And be it further enacted, that as soon as may be after the passing of this act the guardians of every poor law union in Ireland shall (subject to the approbation of the Poor Law Commissioners) divide such union into districts of convenient extent, and may alter the same from time to time, subject to the like approbation, and shall (subject to such approbation as aforesaid) contract with competent medical practitioners for the period of one year, and so from year to year as such contract may expire for the vaccination of all persons who may come to such medical practitioners for that purpose.

Previous provisions with respect to

VII. And be it further enacted, that all the provisions hereinbefore made with respect to England and Wales for the making of reports of such medical officers or medical practitioners shall apply to all such

(a) See "Vaccination," p. 165.

contracts as may be made under this act by the guardians of any poor law union in Ireland; and such guardians, and all other officers engaged in the administration of relief to the destitute poor, shall conform to the regulations and instructions of the Poor Law Commissioners, in like manner as is hereinbefore directed with respect to guardians, overseers, and other officers in England and Wales. 3 & 4 Vict. c. 29. unions in England and Wales to apply to Ireland.

VIII. And be it further enacted, that any person who shall from and after the passing of this act produce or attempt to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article, or thing impregnated with variolous matter, or wilfully by any other means whatsoever produce the disease of small pox in any person in England, Wales, or Ireland, shall be liable to be proceeded against and convicted summarily before any two or more justices of the peace in petty sessions assembled, and for every such offence shall, upon conviction, be imprisoned in the common gaol or house of correction for any term not exceeding one month. Persons inoculating or otherwise producing small pox to be subject to one month's imprisonment.

IX. And be it further enacted, that every word in such part of this act as refers to England and Wales shall be interpreted in like manner as such word is directed to be interpreted in an act passed in the fourth and fifth year of his late Majesty King William the Fourth, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales;" and that every word used in such part of this act as relates to Ireland shall be interpreted in like manner as such word is directed to be interpreted in an act passed in the first and second year of the reign of her present Majesty, intituled "An Act for the more effectual Relief of the destitute Poor in Ireland." Interpretation of words. 4 & 5 W. 4, c. 76. 1 & 2 Vict. c. 56.

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## 3 & 4 Vict. c. 85.

*An Act for the Regulation of Chimney Sweepers and Chimneys* (*a*). [7th August, 1840.] 3 & 4 Vict. c. 85.

Whereas an act was passed in the fifth year of the reign of his late Majesty, intituled "An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues," to continue in force until the first day of January in the year one thousand eight hundred and forty, and from thence until the end of the then next session of parliament: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the said act shall continue and remain in full force until the first day of July in the year one thousand eight hundred and forty-two. 4 & 5 W. 4, c. 35. Continuance of 4 & 5 W. 4, c. 35.

II. And be it enacted, that from and after the first day of July in the year one thousand eight hundred and forty-two, any person who shall compel or knowingly allow any child or young person under the age of twenty-one years to ascend or descend a chimney, or enter a flue, for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein, shall be liable to a penalty not more than ten pounds or less than five pounds. Penalty for compelling or allowing children to climb chimneys.

III. And be it enacted, that from and after the passing of this act it shall not be lawful to apprentice to any person using the trade or business of a chimney sweeper any child under the age of sixteen years, and that every indenture of such apprenticeship which may be entered into after such date shall be null and void (*b*). No child under sixteen years to be apprenticed to a chimney sweeper.

(*a*) See "Protection of Chimney Sweepers," p. 152. (*b*) See note (*b*), p. 153.

3 & 4 Vict. c. 85.

Apprentices may apply to be discharged.

IV. And be it enacted, that upon the application of any child app ticed to any person using the trade or business of a chimney sweepe any time after the first day of July one thousand eight hundred forty-one and previously to the first day of July one thousand e hundred and forty-two, to any justice of the peace having jurisdic where the master or mistress of such child shall reside, it shall be la for such justice to summon such master or mistress to appear, a reasonable time to be named in the summons, not being sooner t seven days from the time of granting the summons, before any justices having jurisdiction as aforesaid; and upon proof made upon o to the satisfaction of the justices by whom the case shall be heard, such apprentice is desirous of being discharged from his or her app ticeship, it shall be lawful for such justices forthwith to discharge apprentice by warrant under their hands and seals, for which warran fees shall be paid; and no writ of certiorari or other process shall i to remove any proceedings under this enactment into any of her Majes superior courts of record in England or Ireland, or into the Cour Session in Scotland.

Indentures of children under sixteen years to cease after 1st July, 1842.

V. And be it enacted, that from and after the first day of July thousand eight hundred and forty-two all existing indentures of app ticeship to the trade or business of a chimney sweeper of any child shall then be under the age of sixteen years shall be null and void.

Regulating construction of chimneys.

VI. And whereas it is expedient, for the better security from accid by fire or otherwise, the improved construction of chimneys and provided by the said act be continued: be it enacted, that all withs partitions between any chimney or flue which at any time after passing of this act shall be built or rebuilt shall be of brick or stone, at least equal to half a brick in thickness; and every breast-back with or partition of any chimney or flue hereafter to be built or rel shall be built of sound materials, and the joints of the work well fille with good mortar or cement, and rendered or stuccoed within; and that every chimney or flue hereafter to be built or rebuilt in any v or of greater length than four feet out of the wall, not being a circ chimney or flue twelve inches in diameter, shall be in every section of same not less than fourteen inches by nine inches; and no chimne flue shall be constructed with any angle therein which shall be obtuse than an angle of one hundred and twenty degrees, except a hereinafter excepted; and every salient or projecting angle in any chin or flue shall be rounded off four inches at the least, upon pain of forfeit by every master builder or other master workman who shall mak cause to be made such chimney or flue, of any sum of not less than pounds nor exceeding fifty pounds: Provided nevertheless, that notw standing this act chimneys or flues may be built at angles with each o of ninety degrees and more, such chimneys or flues having therein pr doors or openings not less than six inches square.

Before whom convictions may be had.

Penalties how to be levied and applied.

VII. And be it enacted, that all convictions for penalties for offence against this act may be had before two or more justices of peace acting for the county, riding, city, borough, division, or place w the offence shall happen, or before the sheriff or stewart of any count stewartry in Scotland; and such penalties, and the costs and cha attending the recovery thereof, shall be levied by distress and sale of goods and chattels of the offender or person liable or ordered to pay same respectively, by warrant under the hands and seals of two or mo the said justices, or under the hand of any such sheriff or stew rendering the overplus of such distress and sale (if any) to the part parties, after deducting the charge of making the same, which war such justices or sheriffs or stewarts are hereby empowered and require grant, upon conviction of the offender by confession, or oath of one or credible witness or witnesses; and the penalties, costs, and charges,

so levied, shall be paid, the one half to the informer, and the other half to the overseers or managers of the poor of the parish, township, or place where the offender shall dwell and inhabit, to be by such overseers or managers applied in aid of the rate or assessment raised for the relief of the poor of such parish, township, or place, and in Scotland, in parishes where there shall be no assessment for the relief of the poor, as the said managers shall direct, or to her Majesty in case there shall be no such overseer or manager.

In default of payment of penalty the parties convicted to be sent to prison.

VIII. And be it enacted, that the justices of the peace or sheriffs or stewarts by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this act may adjudge that such person shall pay the same, together with costs, either immediately or within such period as the said justices shall think fit; and that in default of payment at the time appointed such person shall be imprisoned in the common gaol or house of correction (with or without hard labour), as to the said justices or sheriffs or stewarts shall seem meet, for any time not exceeding two calendar months; the commitment to be determinable upon payment of the amount of the penalty and costs.

Inhabitants not incompetent witnesses by reason of paying rates.

IX. And be it enacted, that no inhabitant of any parish, township, or place shall be deemed an incompetent witness in any suit, action, information, complaint, appeal, prosecution, or proceeding to be had, made, prosecuted, or carried on under the authority of this act, for any offence committed within such parish, township, or place, by reason of such person being rated or assessed to, or liable to be rated or assessed to, or being otherwise interested in, the rates or assessments of any such parish, township, or place.

Distress not to be deemed unlawful for want of form.

X. And be it enacted, that where any distress shall be made for any sum or sums of money to be levied by virtue of this act the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any default or want of form in any proceedings relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall be afterwards done by the party or parties distraining, but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case, to be brought in some of the courts of record at Westminster or Dublin, or by action raised or complaint preferred in the Court of Session in Scotland: Provided always, that no plaintiff or plaintiffs shall recover in any action for any such irregularity, trespass, or wrongful proceeding if tender of sufficient amends for any such special damage shall be made by or on behalf of the party or parties who shall have committed or caused to have been committed any such irregularity or wrongful proceeding before such action or complaint brought; and in case no such tender shall have been made it shall be lawful for the defendant or defendants in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he or they shall see fit, whereupon such proceedings or orders and judgments shall be had, made, and given in and by such court as in other actions where the defendant is allowed to pay money into court.

Tender of amends.

Appeal.

XI. And be it enacted, that any person who shall think himself or herself aggrieved by any conviction by any justice or justices of the peace under this act may appeal to the next court of general or quarter sessions of the peace which shall be holden not less than twelve days after the day of such conviction for the county, stewartry, riding, city, borough, division, or place wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such session, and shall also either remain in custody until the session, or enter into a recognisance,

3 & 4 Vict. c. 85.

with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said session of the peace, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognisance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody, and the court at such session shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet, and in case of the dismissal of the appeal or affirmance of the conviction shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; and all judgments, determinations, and proceedings of such justices not appealed from as aforesaid, and of such sheriff or stewart or quarter sessions, shall be final, and not subject to review by any process of law or court whatever, any law or usage to the contrary notwithstanding.

Conviction not to be quashed for want of form.

XII. And be it enacted, that no conviction or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record; and no warrant of commitment shall he held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Act may be amended this session.

XIII. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of parliament.

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## 4 & 5 Vict. c. 32.

4 & 5 Vict. c. 32.

*An Act to amend an Act to extend the Practice of Vaccination* (a)

[21st June, 1841.

3 & 4 Vict. c. 29 (b).

Whereas an act was passed in the fourth year of the reign of her present Majesty, intituled "An Act to extend the Practice of Vaccination;" but no express provision was thereby made for defraying the expenses of carrying the same into execution; be it therefore declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be and be deemed to have been lawful for the guardians of every parish or union in England and Ireland, and the overseers of every parish in England, by whom the contracts for vaccination may respectively be or have been made under the provisions of the said act, to defray the expenses incident to the execution of the said act out of any rates or monies which may come or may have come into their hands respectively for the relief of the poor.

Expenses of vaccination to be defrayed out of the poor rates.

Vaccination declared not to be parochial relief.

II. And be it further declared and enacted, that the vaccination, or surgical or medical assistance incident to the vaccination, of any person resident in any union or parish, or of any of his family, under the said act, shall not be considered to be parochial relief, alms, or charitable allowance to such person, and that no such person shall by reason of such vaccination or assistance be deprived of any right or privilege, or be subject to any disability or disqualification whatsoever.

(a) See "Vaccination," p. 165. (b) See 3 & 4 Vict. c. 29, p. 202.

## 9 & 10 Vict. c. 74.

*An Act to Encourage the Establishment of public Baths and Wash-houses* (*a*). [26th August, 1846.] 9 & 10 Vict. c. 74.

Whereas it is desirable for the health, comfort, and welfare of the inhabitants of towns and populous districts to encourage the establishment therein of public baths and wash-houses and open bathing places: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this act may be adopted for any incorporated borough in England which is regulated under an act passed in the sixth year of the reign of his late Majesty, to provide for the regulation of municipal corporations, or any charter granted in pursuance of the said act, or any act passed for the amendment thereof, and also, with the approval of one of her Majesty's principal secretaries of state, for any parish in England not within any such incorporated borough. Act may be adopted in certain boroughs and parishes.

II. And be it enacted, that in this act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say, Interpretation of act.

"Parish" shall mean every place having separate overseers of the poor, and separately maintaining its own poor:

"Borough" shall mean city, borough, port, cinque port, or town corporate:

"Rate-payers" shall mean such of the persons for the time being assessed to and paying rates for the relief of the poor of the parish as for the time being shall be duly qualified to vote for the election of overseers for the parish:

"Churchwardens" shall mean also chapelwardens, or other persons discharging the duties of churchwardens:

"Overseers" shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

"Vestry" (*b*) shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry elected under an act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to amend the Laws for the Relief of the Poor," or elected under an act passed in the second year of the reign of his late Majesty, intituled "An Act for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales," or elected under the provisions of any local act of parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry: 59 G. 3, c. 12. 1 & 2 W. 4, c. 60.

"Commissioners" shall mean the commissioners appointed in accordance with this act for any parish, and for the time being in office and acting as such commissioners:

"Clerk" shall mean, as regards an incorporated borough, the town clerk of such borough; and, as regards a parish, the clerk appointed pursuant to this act by the commissioners:

"Justice" shall mean justice of the peace for the county, riding, division, liberty, borough, or place, where the matter requiring the cognizance of justices shall arise:

(*a*) See "Baths and Wash-houses," p. 48. (*b*) See note, p. 27.

9 & 10 Vict. c. 74.

"Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure:

Words importing the masculine gender shall include the feminine:

Words of the plural number shall include the singular, and words of the singular number shall include the plural.

Council of any borough may adopt the provisions contained in this act, if they think fit.

III. And be it enacted, that the council of any such borough as aforesaid may, if they think fit, determine that this act shall be adopted for such borough, and then and in such case such of the provisions of this act as are applicable in that behalf shall thenceforth take effect and come into operation in such borough, and this act shall be carried into execution in such borough in accordance with such provisions and the laws for the time being in force relating to the municipal corporation of such borough.

Expenses of carrying this act into execution shall be charged upon the borough fund, and income arising carried to same.

IV. And be it enacted, that the expenses of carrying this act into execution in any such borough in which the council shall have resolved to adopt this act for their borough shall be chargeable upon and paid out of the borough fund, and for that purpose the council may levy with and as part of the borough rate, or by a separate rate to be assessed, levied, paid, and recovered in like manner and with the like powers and remedies in all respects as the borough rate, such sums of money as shall be from time to time necessary for defraying such expenses, and shall apply the same accordingly as if the expense of carrying this act into execution were an expense necessarily incurred in carrying into effect the provisions of the said act of the sixth year of the reign of his late Majesty; and the income arising from the baths and wash-houses and open bathing places in any borough shall be paid to the credit of the borough fund thereof, and the council shall keep distinct accounts of their receipts, payments, credits, and liabilities, with reference to the execution of this act, to be called "The Public Baths and Wash-houses Account."

On the requisition of ten rate-payers, churchwardens, &c. to convene vestry meeting to determine whether this act shall be adopted.

If vestry resolve to adopt the act, a copy of resolution to be sent to secretary of state, &c.

No resolution deemed to be carried unless two-thirds vote for it.

V. And be it enacted, that upon the requisition in writing of ten or more rate-payers of any such parish as aforesaid, not being within any such incorporated borough, the churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish shall convene a meeting of the vestry for the special purpose of determining whether this act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given at least seven days before the day to be appointed for holding such vestry; and if thereupon it shall be resolved by the vestry that this act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of her Majesty's principal secretaries of state for his approval, and as soon as such approval shall have been signified in writing under the hand of any such secretary of state, such of the provisions of this act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish: Provided always, that no such resolution of the vestry shall be deemed to be carried unless at least two-thirds of the number of votes given on the question according to the usual manner of voting at such vestry shall have been given for such resolution.

Where act adopted vestry to appoint commissioners for carrying the same into execution.

VI. And be it enacted, that in such case the vestry shall appoint not less than three nor more than seven persons, being rate-payers of the parish, commissioners for carrying this act into execution in the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly, but shall be eligible for immediate reappointment.

Resignation of commissioners.

VII. And be it enacted, that any commissioner may at any time resign his office as a commissioner on giving seven days' notice in writing of his intention to resign to the clerk, and also to the churchwardens.

Vacancies to be filled up by vestry.

VIII. And be it enacted, that any vacancies in the commissionership may be filled up by the vestry when and as the vestry shall think fit.

Meetings of the commissioners.

IX. And be it enacted, that the commissioners shall meet at least once in every calendar month at their office, or some other convenient place previously publicly notified.

Special meetings of commissioners.

X. And be it enacted, that the commissioners may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours' notice, the commissioners for any special purpose therein named, and to meet at such times as shall be therein named.

Quorum of meetings of commissioners.

XI. And be it enacted, that at all meetings of the commissioners any number not less than one-third of the whole number when more than three commissioners shall have been appointed, and when only three commissioners shall have been appointed then any number not less than two commissioners, shall be a sufficient number for transacting business, and for exercising all the powers of the commissioners.

Commissioners may appoint and remove officers, &c.

XII. And be it enacted, that the commissioners shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for effecting the purposes of this act, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office.

Minutes of proceedings of commissioners to be entered in a book.

XIII. And be it enacted, that all orders and proceedings of the commissioners shall be entered in books, to be kept by them for that purpose, and shall be signed by the commissioners, or any two of them; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and proceedings; and such books may be produced and read as evidence of all such orders and proceedings upon any appeal, trial, information, or other proceeding, civil or criminal, and in any court of law or equity whatsoever.

Commissioners to keep accounts, which shall be open to inspection.

XIV. And be it enacted, that the commissioners shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred; and such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and rate-payer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the commissioners, or any of them, or any of their officers or servants having the custody of the said books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or rate-payer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding five pounds.

Penalty for refusing to allow inspection.

Auditors to be appointed yearly, who shall examine the accounts and report to vestries.

XV. And be it enacted, that the vestry shall yearly appoint two persons, not being commissioners, to be auditors of the accounts of the commissioners, and at such time in the month of March in every year after the adoption of this act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Expenses of executing act in any parish to be paid out of the poor's rate

XVI. And be it enacted, that the expenses of carrying this act into execution in any parish not within any such incorporated borough to such amount as shall be from time to time sanctioned by the vestry shall be chargeable upon and paid out of the monies to be raised or applicable for the relief of the poor of the parish.

Overseers to

XVII. And be it enacted, that for defraying the expenses which shall

9 & 10 Vict. c. 74.

have been or shall be incurred in carrying this act into execution in the parish the vestry may and shall from time to time order the overseers to levy with and as part of the rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid, and recovered in like manner, and with the like powers and remedies in all respects, as such rate, and shall be paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts.

levy, as part of the poor's rate, such sums as vestry shall deem necessary to pay expenses.

Monies raised, and the income arising from baths, &c., in the parish, to be applied towards defraying expenses.

XVIII. And be it enacted, that the money raised for defraying the expenses of carrying this act into execution, and the income arising from the baths and wash-houses and open bathing places in the parish, shall be applied by the commissioners in or toward defraying the expenses of carrying this act into execution in the parish; and whenever, after repayment of all monies borrowed for the purpose of carrying this act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners, they shall pay the same to the overseers in aid of the rate for the relief of the poor of the parish.

Vestries of two or more parishes may concur in carrying this act into execution, subject to the approval of secretary of state.

XIX. And be it enacted, that the vestries of any two or more neighbouring parishes which shall have respectively adopted this act may concur in carrying this act into execution in such parishes in such manner not inconsistent with the provisions of this act, and for such time, as they shall mutually agree; and for that purpose it may, with the approval of such secretary of state, be agreed on between such vestries that any public baths and wash-houses and open bathing places shall be erected and made in any one of such parishes, to be vested in the commissioners thereof, and that the expenses of carrying this act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and wash-houses and open bathing places, form one body of commissioners, and shall act accordingly in the execution of this act, and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation of commissioners.

XX. And for the more easy execution of the purposes of this act, be it enacted, that the commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "The Commissioners for public Baths and Wash-houses in the Parish of ( ) in the County of ( )," and by that name may sue and be sued in all courts, and before all justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this act.

Councils, &c., may borrow money for the purposes

XXI. And be it enacted, that for carrying this act into execution in any borough or parish respectively, the council, with the approval of the commissioners of her Majesty's treasury, and the commissioners, with the sanction of the vestry, and also with the approval of the commissioners of

Majesty's treasury, may from time to time borrow at interest, on the ity of a mortgage, as the case may be, of the borough fund, or of the for the relief of the poor of the parish, the money which may be by respectively required, and shall apply the monies so borrowed dingly. 9 & 10 Vict. c. 74. of the act, with the approval of the treasury.

XII. And be it enacted, that the commissioners for carrying into rtion an act passed in the second session of the fifth year of the reign r Majesty, intituled "An Act to authorize the Advance of Money out ie Consolidated Fund to a limited Amount for carrying on Public ks and Fisheries and Employment of the Poor, and to amend the Acts orizing the Issue of Exchequer Bills for the like Purposes," may from to time make to the council of any such borough, or commissioners of such parish respectively, for the purposes of this act, any loan under provisions of the recited act or the several acts therein recited or red to, upon security of the borough fund, or the rates for the relief of poor of the parish, as the case may be. The Public Works Loan Commissioners may advance money for the purposes of this act (a).

XIII. And be it enacted, that the provisions of the Companies Clauses nolidation Act, 1845, with respect to the borrowing of money by any pany on mortgage, and the provisions of the same act with respect ie accountability of the officers of the company, and the provisions of same act with respect to the making of byelaws, subject to the pro- in hereinafter contained, and the provisions of the same act with ect to the recovery of damages not specially provided for, and penalties, ir as such provisions may respectively be applicable to the purposes of act, shall be respectively incorporated with this act; and the expres- s in such provisions applicable to the company and the directors shall ly as regards a borough to the council, and as regards a parish to the missioners; and all deeds and writings which under such provisions required or directed to be made or executed under the common seal of company shall in the application of such provisions to this act be ned to be required or directed to be made or executed as regards a ough under the common seal of the mayor, aldermen, and burgesses, as regards a parish under the common seal of the commissioners; and nuch of such provisions as are applicable to the "secretary of the com- y" shall apply to the clerk; and in such of the said provisions as te to the inspection of accounts as regards a borough the burgesses, and as rds a parish the rate-payers, shall have the privileges of shareholders. 8 & 9 Vict. c. 16, incorporated with this act for certain purposes (b).

XIV. And be it enacted, that in any such borough the council, with approval of the commissioners of her Majesty's treasury, may from e to time appropriate for the purposes of this act in the borough any ls vested in the mayor, aldermen, and burgesses; and in any such ish the commissioners appointed under this act, with the approval of vestry and of the guardians of the poor of the parish (if any), and of Poor Law Commissioners for England and Wales, may from time to time ropriate for the purposes of this act in the parish any lands vested in a guardians, or in the churchwardens, or in the churchwardens and nseers of the parish, or in any feoffees, trustees, or others, for the eral benefit of the parish; and in any such parish the commissioners, h the approval of the vestry, and in any such borough the council, may n time to time contract for the purchasing or renting of any lands neces- y for the purposes of this act, and the property therein shall be vested the mayor, aldermen, and burgesses in the case of a borough, or in the missioners in the case of a parish. Council may appropriate, with consent of the treasury, lands vested in the mayor, &c. Commissioners may, with approval of vestry, &c., appropriate lands belonging to parish; or contract for purchase of the same.

XV. And be it enacted, that the council and commissioners re- ctively may from time to time, on any lands so appropriated, pur- sed, or rented, or contracted so to be respectively, erect any buildings table for public baths and wash-houses, and as to such wash-houses ver with or without open drying grounds, and make any open bathing Councils and commissioners may erect, &c., public baths and wash-

(a) See note, p. 126. (b) See note, p. 50.

9 & 10 Vict. c. 74.

houses and open bathing places.

places, and convert any buildings into public baths and wash-houses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences (a).

Councils and commissioners may enter into contracts for the purposes of this act.

XXVI. And be it enacted, that the council and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving, such public baths and wash-houses and open bathing places, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the council or the commissioners, for the purposes of this act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the council or commissioners at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the council or commissioners to contract with the person offering the lowest price.

No contract above 100*l.* to be entered into without notice.

Council or commissioners may purchase existing baths, &c.

XXVII. And be it enacted, that the council of any such borough, and the commissioners, with the approval of the vestry of any such parish, may, if they shall think fit, contract for the purchase or lease of any baths and wash-houses already or hereafter to be built and provided in any such borough or parish, and appropriate the same to the purposes of this act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and wash-houses which have been already or may hereafter be built or provided in any such borough or parish by private subscriptions or otherwise may, with the consent of the council of any such borough, or with the consent of the commissioners, and approval of the vestry of any such parish, and with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and wash-houses to the said council or commissioners respectively, or make over to them the management of such baths and wash-houses; and in all such cases the baths and wash-houses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this act as fully as if they had been built or provided by the said council or commissioners; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.

Power to water and gas companies to supply water and gas to baths, &c.

XXVIII. And be it enacted, that any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, and gas works respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and wash-houses and open bathing places either without charge or on such other favourable terms as they shall think fit.

Councillors and commissioners not to be per-

XXIX. And be it enacted, that nothing in this act contained shall render any member of the council of any borough, or any commissioner, personally or any of their lands, goods, chattels, or monies (other than such lands,

(a) See note (*), p. 43.

goods, chattels, or monies as may be vested in or under the management or control of the council or commissioners respectively in pursuance of this act), liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of any thing done or suffered in due pursuance of this act.

Personally liable.

Persons may appeal against orders of councils and commissioners.

XXX. And be it enacted, that every person who shall feel aggrieved by any byelaw, order, direction, or appointment of or by the council or commissioners shall have the like power of appeal to the general quarter sessions as under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty.

Council, &c., empowered to make sale and exchange of lands, with consent.

XXXI. And be it enacted, that the council, with the approval of the commissioners of her Majesty's treasury, and the commissioners appointed under this act, with the approval of the vestry, and of the commissioners of her Majesty's treasury respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively for the purposes of this act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes, and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

When baths, &c. are considered too expensive they may, with approval of treasury, be sold, and proceeds of sale carried to borough fund or poor's rate.

XXXII. And be it enacted, that whenever any public baths or wash-houses or open bathing places which shall have been for seven years or upwards established under the authority of this act shall be determined by the council or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary or too expensive to be kept up, the council or commissioners, with the approval of the commissioners of her Majesty's treasury, may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the commissioners, shall convey the same accordingly; and the purchase-money shall be paid to such person as the council or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the rate for the relief of the poor of the parish.

Management to be vested in councils and parish commissioners.

XXXIII. And be it enacted, that the general management, regulation, and control of the public baths and wash-houses and open bathing places established under this act, shall, subject to the provisions of this act, be as to any borough vested in and exercised by the council, and as to any parish vested in and exercised by the commissioners.

Council, &c., may make byelaws for regulating the use of baths and wash-houses, &c., and charges thereat.

XXXIV. And be it enacted, that the byelaws which the council and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such byelaws for the management, use, and regulation of the public baths and wash-houses and open bathing places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and wash-houses and open bathing places respectively, as the council and commissioners respectively shall think fit, and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants, or by other persons, of any byelaw made by them respectively; and such byelaws shall make sufficient provision for the several purposes respectfully expressed in the schedule (A.) to this act: Provided always, that no byelaw made under the authority of this act shall be of any legal force until the same shall have received the approval of one of her Majesty's principal secretaries of state.

(*Sic.*) Byelaws to be approved by the secretary of state.

Copies or abstracts

XXXV. And be it enacted, that a printed copy or sufficient abstract of the byelaws relating to the use of the baths and open bathing places respectively shall be put up in every bath room and open bathing place re-

9 & 10 Vict. c. 74.

spectively; and a printed copy or sufficient abstract of the byelaws relating to the use of the wash-houses shall be kept up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every wash-house.

byelaws to be hung up in every bath room, &c.

Proportion of baths for the labouring classes.

XXXVI. And be it enacted, that the number of baths for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the baths of any higher class if but one, or of all the baths of any higher classes if more than one, in the same building or buildings.

Charges to be fixed by councils and commissioners not exceeding those in schedule (B.).

XXXVII. *And be it enacted, that the council and the commissioners respectively may from time to time make such reasonable charges for the use of the baths and wash-houses and open bathing places respectively provided under this act as they shall think fit, but not exceeding such charges as are mentioned in the schedule (B.) annexed to this act, unless for the use of any washing tub or trough for more than two hours in any one day, for which any charges may be made which the council or commissioners respectively shall deem reasonable* (a).

As to recovery of charges at wash-houses.

XXXVIII. And be it enacted, that for the recovery of the charges at such wash-houses the officers, servants, and others having the management thereof may detain the clothes brought to be washed or other goods and chattels of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made, and in case such payment be not made within seven days may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person.

Penalty for council, commissioners, or officers, taking fees beyond salaries, or being interested in contracts.

XXXIX. And be it enacted, that if any clerk or other officer, or any servant who shall be in anywise employed by any council or commissioners in pursuance of this act, shall exact or accept any fee or reward whatsoever for or on account of any thing done or forborne or to be done or forborne in pursuance of this act, or on any account whatsoever relative to putting this act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or commissioners, or shall in anywise be concerned or interested in any bargain or contract made by the council or commissioners for or on account of any thing done or forborne or to be done or forborne in pursuance of this act, or on any account whatsoever relative to the putting of this act into execution, or if any person during the time he holds the office of member of the council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this act, and shall for every such offence also forfeit the sum of fifty pounds (b).

Application of penalties.

XL. And be it enacted, that such part of any penalty recovered under this act as shall not be awarded to the informer shall be paid to the credit as regards a borough of the borough fund, and as regards a parish of the rate for the relief of the poor thereof.

Act may be amended, &c.

XLI. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of parliament.

## SCHEDULES referred to by the foregoing act.

### SCHEDULE (A.)

*Byelaws to be made in all Cases.*

For securing that the baths and wash-houses and open bathing places shall be under the due management and control of the officers, servants,

(a) See 10 & 11 Vict. c. 61, s. 6, p. 232. (b) See notes, pp. 26 and 113.

rs appointed or employed in that behalf by the council or commis- 9 & 10 Vict. c. 74.

securing adequate privacy to persons using the baths and wash- and open bathing places, and security against accidents to persons he open bathing places.
securing that men and boys above eight years old shall bathe sepa- rom women and girls and children under eight years old.
preventing damage, disturbance, interruption, and indecent and e language and behaviour, and nuisances.
determining the duties of the officers, servants, and others appointed council or commissioners.
arishes. For regulating the procedure of the commissioners.

SCHEDULE (B.)

ums *Charges during the First Seven Years after the Establishments opened for public Use; and after such Seven Years, except only so after such Seven Years as higher Charges may be necessary for aying the current Expenses of the Establishments.*

s for the labouring classes, supplied with clean water for every , or for several children bathing together :

| | |
|---|---|
| For one person above eight years old, including the use of one clean towel : | |
| Cold bath . . . . . | *One penny.* |
| Warm bath . . . . . | *Two-pence.* |
| For several children, not exceeding four, including the use of one clean towel for every child : | |
| Cold bath . . . . . | *Two-pence.* |
| Warm bath . . . . . | *Four-pence.* |

h-houses for the labouring classes, supplied with conveniences for g and drying clothes and other articles :

| | |
|---|---|
| For the use by one person of one washing tub or trough, or one pair of washing tubs or troughs : | |
| For one hour only in any one day . . | *One penny.* |
| For two consecutive hours only in any one day . . . . . | *Three-pence.* |
| Such charges to include the use of the drying apparatus for drying all the articles washed. The time occupied in drying not to be included in the hour or two hours. A fraction of an hour, exceeding five minutes, to be reckoned one hour. | |

n bathing places, where several persons bathe in the same water :

| | |
|---|---|
| For one person . . . . . | *One halfpenny.* |

## 10 Vict. c. 14.

*Act for consolidating in One Act certain Provisions usually contained in Acts for constructing or regulating Markets and Fairs (a).* [23rd April, 1847.] 10 Vict. c. 14.

HEREAS it is expedient to comprise in one act sundry provisions usually ined in acts of parliament authorising the construction or regulation rkets and fairs, and that as well for avoiding the necessity of repeat-

Provisions incorporated by the Local Government Act 21 & 22 Vict. c. 9 s.

10 Vict. c. 14.

ing such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this act shall extend only to such markets or fairs as shall be authorised by any act of parliament hereafter to be passed which shall declare that this act shall be incorporated therewith; and all the clauses of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other act which shall be incorporated therewith, form part of such act, and be construed therewith as forming one act.

Extent of act.

Interpretations in this act:

And with respect to the construction of this act, and any act incorporated therewith, be it enacted as follows:

"Special act:"

"prescribed:"

"the lands:"

"the undertaking:"

"undertakers."

II. The expression "the special act" used in this act shall be construed to mean any act which shall be hereafter passed authorising the construction or regulation of a market or fair, and with which this act shall be incorporated; and the word "prescribed" used in this act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special act" had been used; and the expression "the lands" shall mean the lands which shall by the special act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the market or fair, and the works connected therewith, by the special act authorised to be constructed or regulated; and the expression "the undertakers" shall mean the persons authorised by the special act to construct or regulate the market or fair.

Interpretations in this and the special act:

III. The following words and expressions in both this and the special act, and any act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

number:

Words importing the singular number shall include the plural number, and words importing the plural number shall include also the singular number:

gender:

Words importing the masculine gender shall include females:

"person:"

The word "person" shall include a corporation, whether aggregate or sole:

"lands:"

The word "lands" shall include messuages, lands, tenements, and hereditaments or heritages of any tenure:

"lease:"

The word "lease" shall include a missive of and an agreement for a lease:

"the market or fair:"

The expression "the market or fair" shall mean the market or fair, and the works connected therewith, by the special act authorised to be constructed or regulated:

"cart:"

The word "cart" shall include waggon, and also any carriage used wholly or chiefly for the conveyance of goods:

"driver:"

The word "driver" shall include the carter or other person having the care of any cart:

"cattle:"

The word "cattle" shall include horse, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine:

"collector:"

The expression "the collector" shall mean the person appointed by the undertakers to collect the stallages, rents, or tolls authorised by the special act, and shall include the assistants of the collector:

"month:"

The word "month" shall mean calendar month:

"superior courts:"

The expression "superior courts," when the matter submitted to the cognisance of the court arises in England or Ireland, shall mean her

majesty's superior courts of record at Westminster or Dublin, as the case may require, and shall include the Court of Common Pleas of the County Palatine of Lancaster, and the Court of Pleas of the county of Durham; and when such matter arises in Scotland it shall mean the Court of Session:

"oath:" The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"county:" The word "county" shall include riding or other division of a county having a separate commission of the peace; and in Scotland, stewartry, and any ward or other division of a county or stewartry, having a separate sheriff; and it shall also include county of a city or county of a town:

"justice:" The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognisance of any such justice arises; and if such matter arise in respect of lands situated not wholly in any one jurisdiction, shall mean a justice acting for the place where any part of such lands shall be situated; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices assembled and acting together:

"two justices:"

"sheriff:" The word "sheriff" shall mean the sheriff depute of the county or ward of a county in Scotland and the steward depute of the stewartry in Scotland in which the matter submitted to the cognisance of the sheriff arises, and shall include the substitutes of such sheriff depute and steward depute respectively:

"quarter sessions." The expression "quarter sessions" shall mean quarter sessions as defined in the special act; and if such expression be not there defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest to the market or fair, or the principal office thereof, for the county or place in which the market or fair is situate, or for some division of such county having a separate commission of the peace.

*Citing the act.* And with respect to citing this act or any part thereof, be it enacted as follows:

Short title of this act. IV. In citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Markets and Fairs Clauses Act, 1847."

Form in which portions of this act may be incorporated in other acts. V. For the purpose of incorporating part only of this act with any act hereafter to be passed it shall be enough to describe the clauses of this act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this act, with the exception of the clauses so described, shall be incorporated with such act, and thereupon all the clauses of this act so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if such clauses were set forth therein with reference to the matter to which such act relates.

*Holding of markets, &c.* And with respect to the holding of the market or fair, and the protection thereof, be it enacted as follows:

Before the market or fair shall be opened, notice to be given by undertakers. XII. Before the market or fair shall be opened for public use the undertakers shall give not less than ten days' notice of the time when the same will be opened, and such notice shall be given by the publication thereof in some newspaper circulating within the limits of the special act, and by printed handbills posted on some conspicuous place within those limits.

Sales elsewhere than in markets. XIII. After the market place is opened for public use every person other than a licensed hawker who shall sell or expose for sale in any place within the prescribed limits, except in his own dwelling place or

10 VICT. c. 14.

shop (*a*), any articles in respect of which tolls are by the special act authorised to be taken in the market, shall for every such offence be liable to a penalty not exceeding forty shillings.

prohibited under a penalty not exceeding 40*s*.

XIV. After the market place or place for fairs is opened for public use the undertakers shall hold markets and fairs therein on the prescribed days (if any), and on such other days as the undertakers shall appoint from time to time by any byelaw to be made in pursuance of this or the special act (*b*).

Market days.

Penalty for selling or exposing for sale unwholesome meat, &c.

XV. Every person who shall sell or expose for sale any unwholesome meat or provisions in the market or fair shall be liable to a penalty not exceeding five pounds for every such offence; and any inspector of provisions appointed by the undertakers may seize such unwholesome meat or provisions, and carry the same before a justice, and thereupon such proceedings shall be had as are hereinafter directed to be had in the case of any cattle or carcase seized in any slaughter-house and carried before a justice; and every person who shall obstruct or hinder the inspector of provisions from seizing or carrying away such unwholesome meat or provisions shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty on obstructing inspector.

Penalty for obstructing market or fair keeper.

XVI. Every person who shall assault or obstruct any person appointed by the undertakers to superintend the market or fair, or to keep order therein, whilst in the execution of his duty, shall for every such offence be liable to a penalty not exceeding forty shillings.

*Weighing of goods and carts.*

And with respect to weighing goods and carts, be it enacted as follows :—

Undertakers to provide proper weights and measures for weighing commodities sold at markets and fairs.

XXI. The undertakers shall provide sufficient and proper weighing houses or places for weighing or measuring the commodities sold in the market or fair, and shall keep therein proper weights, scales, and measures, according to the standard weights and measures for the time being for weighing such commodities as aforesaid, and shall appoint proper persons to attend to the weighing or measuring such commodities at all times during which the market or fair is holden.

Articles to be weighed if requested by the buyer.

Penalty for refusal.

XXII. Every person selling or offering for sale any articles in the market or fair shall, if required so to do by the buyer, cause the same to be weighed or measured by the weights and scales or measures provided by the undertakers; and any such person who shall refuse, on demand, to cause such articles to be weighed or measured in manner aforesaid, shall be liable to a penalty not exceeding forty shillings.

Penalty on persons appointed refusing to weigh.

XXIII. Every person appointed by the undertakers to weigh or measure any articles sold in the market or fair who shall refuse or neglect to weigh or measure the same when required shall be liable to a penalty not exceeding forty shillings.

Undertakers to keep proper machines for weighing carts laden with goods.

XXIV. The undertakers shall provide sufficient and proper buildings or places for weighing carts in which goods are brought for sale within the market or fair or the prescribed limits, and shall keep therein machines and weights proper for that purpose, and shall from time to time appoint a person in every such building or place to afford the use of such machines to the public by weighing such carts, with or without their loading, as may be required.

Carts to be weighed at one of the machines erected by the undertakers.

XXV. The driver of every such cart shall, at the request of the buyer or seller of such goods, or his agent, take such cart, with or without the loading thereof, to the nearest of the said weighing machines, and shall permit the same to be weighed; and if such cart be weighed with its load thereupon the driver shall, if required, take such cart after its load has been discharged to the weighing machine nearest to such place of discharge,

(*a*) See note, p. 116.

(*b*) See 13 & 14 Vict. c. 23, prohibiting the holding of markets on Sundays.

and permit it to be re-weighed without such load; and if any such driver shall for the purposes aforesaid be required to take such cart a greater distance than half a mile, including the going to and returning from such machines respectively, the owner of the cart shall be paid for every horse which shall be used in drawing such cart twopence for the first half mile, and a like sum for every additional half mile; and such payment shall be made by the person requiring such cart to be weighed as aforesaid before the driver thereof shall be obliged to take it as aforesaid for the purpose of having it weighed.

Penalty on drivers for refusing to take carts to be weighed, &c.

XXVI. The driver of any such cart who shall not, upon being so requested as aforesaid, and having such payment made or tendered as aforesaid, take the same to such weighing machine as hereinbefore directed, or who shall refuse to assist in the weighing of the same, shall forfeit to the person requiring such cart to be weighed a sum not exceeding twenty shillings.

Penalties on drivers of carts, &c., committing frauds in weighing.

XXVII. Every driver of any such cart weighed at any weighing machine to be provided in pursuance of this or the special act who shall commit any of the following offences shall be liable to a penalty not exceeding five pounds for each offence; (that is to say,)

If he at the time of weighing any such cart knowingly have anything in or about the same other than the proper loading thereof:

If he alter any ticket denoting the weight of any such cart or the loading of the same:

If he make or use, or be privy to making or using, any ticket falsely stating the weight of any such cart or the loading thereof:

If he, after the weighing of any such cart with the loading thereof, remove any part of such loading, and afterwards dispose of or attempt to dispose of or represent the residue of such loading as being the full loading denoted by such ticket:

If he, between the time when the cart and the loading thereof have been so weighed and the time when such cart is weighed without such loading, change the wheels of such cart, or make any other change upon it after being required to allow such cart to be weighed without the loading thereof:

If he be guilty of any other fraudulent contrivance to misrepresent the weight of any such cart or of the loading thereof.

Penalty on buyers or sellers for committing frauds in weighing.

XXVIII. If the buyer or seller of any goods brought in any cart for sale within the market or fair, and which shall be required to be weighed as aforesaid, shall do anything to such cart or its loading whereby the true weight thereof respectively shall be altered before such weighing, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalties for frauds committed by the machine keeper.

XXIX. The person for the time being appointed to keep any weighing machine provided in pursuance of this or the special act shall be liable to a penalty not exceeding five pounds in any of the following cases; (that is to say,)

If he wilfully neglect, on application, duly to weigh any cart, with or without its loading, as the case may be, that is brought to the machine kept by him to be weighed:

If he do not fairly weigh every such cart, with or without loading, as the case may be:

If he do not deliver to the buyer or seller of any such loading, or to any person interested therein, on application, a ticket or account specifying the true weight of such cart, with or without such loading, as may be required:

If he give to the driver of any such cart a false ticket or account of the weight of such cart, with or without the loading thereof:

If he weigh any cart, with or without its loading, knowing that anything had been done to such cart or to the loading thereof to alter the true weight thereof respectively:

If he knowingly assist in or connive at any fraud concerning the weighing of any cart or the loading thereof, or make or connive at making any false representation of the weight of the same respectively.

Penalty on other parties committing frauds as to weighing.

XXX. Every person who shall knowingly act or assist in committing any fraud respecting the weighing or weight of any cart, or the loading thereof, in pursuance of this or the special act, shall for every such offence be liable to a penalty not exceeding five pounds.

*Tolls.*

And with respect to the stallages, rents, and tolls to be taken by the undertakers, be it enacted as follows:

Tolls, &c. not to be demanded until market or fair completed.

XXXI. Unless it be otherwise provided by the special act, the undertakers shall not demand or receive any stallage, rent, or toll until the market place or place for a fair or slaughter-house in respect of the use of which the same shall be demanded shall be completed and fit for the use of the persons resorting thereunto.

Certificate of two justices to be evidence that market or fair is completed.

XXXII. A certificate under the hand of any two justices shall be conclusive evidence that the same is completed and fit for public use as aforesaid; and any such justices shall sign such certificate on proof being adduced to them that the market place or place for a fair or slaughter-house is so completed and fit for public use.

Stallages, &c., when to be paid.

XXXIII. The several stallages, rents, or tolls payable in respect of the market or fair or slaughter-house shall be paid from time to time, on demand, to the undertakers or the collector, or other person authorised by the undertakers to receive the same. (*a*)

Tolls to be paid to persons authorised before the same are weighed, &c.

XXXIV. The tolls payable in respect of weighing or measuring marketable commodities, or carts with or without goods, shall be paid to the person authorised by the undertakers to weigh or measure the same by the persons bringing such marketable commodities or carts to be weighed or measured, before the same are weighed or measured.

Tolls in respect of cattle market when due.

XXXV. The tolls in respect of cattle brought to the market for sale shall become due as soon as the cattle in respect whereof they are demandable are brought into the market place, and before the cattle are put into any pen, or tied up in such market place; and if the cattle be not removed within one hour after the close of the market, another toll shall become due in respect of the cattle so omitted to be removed.

Stallages, tolls, &c., may be varied from time to time.

XXXVI. The undertakers may from time to time change the stallages, rents, and tolls to be taken in respect of the market or fair, or for the slaughter-houses, or for weighing and measuring, provided that the stallages, rents, and tolls in no case exceed the amounts authorised by the special act.

Penalty on taking a greater toll than authorised by this or the special act.

XXXVII. Every person who shall demand or receive a greater toll than that authorised to be taken under the provisions of this or the special act shall for every such offence be liable to a penalty not exceeding forty shillings.

Recovery of tolls by distress, &c.

XXXVIII. If any person liable to the payment of any stallage, rent, or toll authorised by this or the special act to be taken do not pay the same when demanded, the undertakers or their lessee, or any person authorised by the undertakers or their lessee to collect the same, may levy the same in England or Ireland by distress, and in Scotland by poinding and sale, of all or any of the cattle or other articles in respect of which such stallage, rent, or toll is payable, or of any other cattle or other articles in the market belonging to the person liable to pay such stallage, rent, or toll, or under his charge, or such tolls may be recovered in any court having competent jurisdiction.

Disputes respecting tolls, how to be settled.

XXXIX. If any dispute arise concerning any such stallage, rent, or toll, such dispute shall be determined in England or Ireland by a justice,

(*a*) See 21 & 22 Vict. c. 98, s. 50, *post*, as to approval of the Secretary of State; also 23 & 24 Vict. c. 51, requiring annual returns of tolls taken in any public market established under authority of Parliament.

and in Scotland by the sheriff, and such justice or sheriff shall, on application made to him, determine the same, and make such order therein, and award such costs to either party, as to him shall seem proper; and in default of payment, on demand, of the money which shall be so awarded, and of the costs, the same shall be forthwith levied in England or Ireland by distress, and in Scotland by poinding and sale, and the justice or sheriff shall issue his warrant accordingly.

Penalty for obstructing collector of rents, &c.

XL. Every person who shall assault or obstruct any person authorised to collect any stallage, rent, or toll authorised by this or the special act, shall for every such offence be liable to a penalty not exceeding forty shillings.

List of tolls, &c., to be set up and placed in conspicuous places.

XLI. The undertakers or their lessee shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, a list of the several stallages, rents, and tolls from time to time payable under this and the special act, and shall cause a board containing such list to be conspicuously set up and continued in the market or fair, and in each weighing house and slaughter-house provided by the undertakers, to which each such list shall relate, and no stallage, rent, or toll shall be payable during the time such list is not so set up, or for anything not specified therein: provided always, that if such list shall be destroyed, injured or obliterated, the stallages, rents, and tolls shall continue to be payable during such time as shall be reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this act.

*Byelaws.*

And with respect to the byelaws to be made by the undertakers be it enacted as follows:

Byelaws may be made for all or any of the purposes herein named.

XLII. The undertakers may from time to time make such byelaws as they think fit for all or any of the following purposes; (that is to say,)

For regulating the use of the market place and fair, and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto:

For fixing the days, and the hours during each day, on which the market or fair shall be held:

For inspection of the slaughter-houses, and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every twenty-four hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein:

For regulating the carriers resorting to the market or fair, and fixing the rates for carrying articles carried therefrom within the limits of the special act:

For regulating the use of the weighing machines provided by the undertakers, and for preventing the use of false or defective weights, scales, or measures:

For preventing the sale or exposure for sale of unwholesome provisions in the market or fair:

Byelaws may be repealed or altered from time to time.

And the undertakers may from time to time, as they shall think fit, repeal or alter any such byelaws; provided always, that such byelaws shall not be repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act, or of any act incorporated therewith; and such byelaws shall be reduced to writing under the common seal of the undertakers if they be a body corporate, or the hands and seals of two of the undertakers if they be not a body corporate, and, if affecting other persons than the officers and servants of the undertakers, shall be printed and published as herein provided.

Byelaws may be enforced by imposition of penalties.

XLIII. The undertakers, by the byelaws so to be made by them, may impose such reasonable penalties as they shall think fit, not exceeding five pounds for each breach of such byelaws; provided that every such

byelaw shall be so framed as to allow the justices or sheriff bef any penalty imposed thereby shall be sought to be recovered to whole or part only of such penalty to be paid.

No byelaws to come into operation until allowed in the manner prescribed and approved by Secretary of State.

XLIV. No byelaws made under the authority of this or the s (except such as may relate solely to the officers or servants of t takers) shall come into operation until the same shall be allowe manner prescribed by the special act, or, if no manner be prescribed, same shall be allowed by the justices at quarter sessions if the m fair be in England or Ireland, or the sheriff if the market or fair b in Scotland, and in either case approved under the hand of on Majesty's principal secretaries of state; and it shall be incumbe justices at quarter sessions, or the sheriff, as the case may be request of the undertakers, to examine into the byelaws which tendered to them for that purpose, and to allow of or disallow t as to them may seem meet.

Notice of allowance of byelaws to be given in one or more newspapers, &c.

XLV. Provided always, that no such byelaw shall be all manner herein mentioned unless notice of the intention to app allowance of the same shall have been given in one or more news the county in which the market or fair shall be situated, or, if the newspaper in such county, in one or more newspapers of the county, one month at least before the hearing of such applicat any party aggrieved by any such byelaw, on giving notice of the his objection to the undertakers ten days before the hearin application for the allowance thereof, may, by himself or his attorney, or agent, be heard thereon, but not so as to allow more party to be heard upon the same matter of objection.

A copy of proposed byelaws to be open for inspection.

XLVI. For one month at least before any such application for a of any byelaw a copy of such proposed byelaws shall be kept principal office of the undertakers, and shall be put up in a spicuous place in the market place or fair, and all persons at all r times may inspect such copy without fee or reward, and the un shall furnish every person who shall apply for the same with a cop or of any part thereof, on payment of sixpence for every one words so to be copied.

Publication of byelaws.

XLVII. The said byelaws shall be published in the prescribed and when no manner of publication is prescribed they shall be pri the clerk of the undertakers shall give a printed copy thereof person applying for the same without charge, and a copy thereo painted or placed on boards, and put up in some conspicuous pa principal office of the undertakers, and also in some conspicu in the market place or fair, and such boards, with the byelaws shall be renewed from time to time as occasion shall require, an open to inspection without fee or reward; and in case the said c not permit the same to be inspected at all reasonable times he every such offence be liable to a penalty not exceeding five pounds.

Byelaws to be binding on all parties.

XLVIII. All byelaws made and confirmed according to the of this and the special act, when so published and put up, binding upon and be observed by all parties, and shall be a warrant for all persons acting under the same.

Proof of publication of byelaws.

XLIX. The production of a written or printed copy of the requiring confirmation by the court of quarter session or th authenticated by the signature of the judge or of the chairma court or the sheriff who shall have approved of the same, and approval under the hand of one of her Majesty's principal secr state, and a written or printed copy of the byelaws not requi confirmation or approval, authenticated by the common seal of t takers if they be a body corporate, or under the hands of the un if not incorporated, or any two of them, shall be evidence of the and making of such byelaws in all cases of prosecution under t

ithout proof of the signature of such judge, chairman, or sheriff, or such cretary of state, or the common seal or signature of the undertakers; d with respect to the proof of the publication of any such byelaws, it all be sufficient to prove that a painted board containing a copy thereof as put up and continued in manner by this act directed, and in case of s afterwards being displaced or damaged that such board was replaced or stored as soon as conveniently might be, unless proof be adduced by the arty complained against that such painted board did not contain a copy f such byelaws, or was not duly put up or continued as directed by his act.

10 VICT. c. 14.

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## 10 & 11 VICT. c. 34.

10 & 11 VICT. c. 34.

*An Act for consolidating in One Act certain Provisions usually contained in Acts for paving, draining, cleansing, lighting, and improving Towns* (*a*). [21st June, 1847.]

WHEREAS it is expedient to comprise in one act sundry provisions ually contained in acts of parliament for paving, draining, cleansing, ghting, and improving towns and populous districts, and that as well for oiding the necessity of repeating such provisions in each of the several cts relating to such towns or districts, as for ensuring greater uniformity the provisions themselves: Be it enacted by the Queen's most excellent ajesty, by and with the advice and consent of the Lords spiritual and tem- ral, and Commons, in this present parliament assembled, and by the autho- ty of the same, that this act shall extend only to such towns or districts in ngland or Ireland as shall be comprised in any act of parliament hereafter be passed which shall declare that this act shall be incorporated there- ith; and all the clauses of this act, save so far as they shall be expressly ried or excepted by any such act (*b*), shall apply to the town or district hich shall be comprised in such act, and to the commissioners appointed r improving and regulating the same, so far as such clauses shall be pplicable thereto respectively, and shall, with the clauses of every other t which shall be incorporated therewith, form part of such act, and be nstrued therewith as forming one act.

Extent of act.

And with respect to the construction of this act, whether incorporated whole or in part with any other act, and of any act incorporated there- ith, be it enacted as follows:

Interpretations in this act.

II. The expression "the special act" used in this act shall be con- rued to mean any act which shall be hereafter passed for the improve- ent or regulation of any town or district, or of any class of towns or stricts defined or comprised therein, and with which this act shall be corporated; and the word "prescribed" used in this act in reference to y matter herein stated shall be construed to refer to such matter as the me shall be prescribed or provided for in the special act, and the sentence which such word shall occur shall be construed as if, instead of the ord "prescribed," the expression "prescribed for that purpose in the ecial act" had been used; and the expression "the commissioners" shall ean the commissioners, trustees, or other persons or body corporate trusted by the special act with powers for executing the purposes ereof.

"the special act:"

"prescribed:"

"the commissioners."

III. The following words and expressions in both this and the special ct, and any act incorporated therewith, shall have the meanings hereby

Interpretations in this and the special act:

(*a*) Provisions incorporated by 21 & 22 Vict. c. 98, s. 45, *post*.
(*b*) See *Blackburn Corporation* v. *Parkinson*, 1 El. & El. 71.

10 & 11 Vict. c. 34.

assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say,)

number : Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

gender : Words importing the masculine gender shall include females :

"person :" The word "person" shall include a corporation, whether aggregate or sole :

"lands :" The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure :

"street :" The word "street" shall extend to and include any road, square, court, alley, and thoroughfare within the limits of the special act :

"month :" The word "month" shall mean calendar month :

"superior courts :" The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require, and shall include the Court of Common Pleas of the county palatine of Lancaster and the Court of Pleas of the county of Durham :

"oath :" The word "oath" shall include affirmation in the case of quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :

"county :" The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town :

"justice :" The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognisance of any such justice arises ; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together :

"two justices :"

"quarter sessions :" The expression "quarter sessions" shall mean quarter sessions as defined in the special act, and if such expression be not there defined shall mean the court of general or quarter sessions of the peace which shall be held in or at the place nearest to the district in which the matter arises requiring the cognisance of any such court, and having jurisdiction over such district :

"owner :" The word "owner," used with reference to any lands or buildings in respect of which any work is required to be done, or any rate to be paid, under this or the special act, shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant at rackrent, would be entitled to receive the rackrent from the occupier thereof :

"cattle." The word "cattle" shall include horses, asses, mules, sheep, goats, and swine.

*Citing the act.*

And with respect to citing this act or any part thereof, be it enacted as follows :

Short title of this act.

IV. In citing this act in other acts of parliament, and in legal instruments, it shall be enough to use the expression "The Towns Improvement Clauses Act, 1847."

Form in which portions of this act may be incorporated with other acts.

V. For the purposes of incorporating part only of this act with any act hereafter to be passed, it shall be enough to describe the clauses of this act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this act, with the exception of the clauses so described, shall be incorporated with such act ; and thereupon all the clauses of this act so incorporated shall, save so far as they are expressly varied or excepted by such act, form part of such act, and such act shall be construed as if such clauses were set forth therein with reference to the matter to which such act relates.

And with respect to naming the streets and numbering the houses, be it enacted as follows :

*Naming streets.*

Houses to be numbered and streets named.

LXIV. The commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and shall cause to be put up or painted on a conspicuous part of some house, building, or place at or near each end, corner, or entrance of every such street the name by which such street is to be known ; and every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up by the commissioners, shall be liable to a penalty not exceeding forty shillings for every such offence.

Numbers of houses to be renewed by occupiers.

LXV. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the commissioners approve of, and shall renew such numbers as often as they become obliterated or defaced ; and every such occupier who fails, within one week after notice for that purpose from the commissioners, to mark his house with a number approved of by the commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding forty shillings, and the commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to them by such occupier, and shall be recoverable as damages.

*Improving streets.*

And with respect to improving the line of the streets, and removing obstructions, be it enacted as follows :

Houses may be set forward for improving line of street.

LXVI. The commissioners may allow, upon such terms as they think fit, any building within the limits of the special act to be set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated.

Commissioners may purchase houses or ground for effecting additional improvements.

LXVII. The commissioners may agree with the owners of any lands within the limits of the special act for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall resell any parts of the land so purchased which shall not be wanted for the enlargement of the street.

Houses projecting beyond line of street, when taken down, to be set back.

LXVIII. When any house or building, any part of which projects beyond the regular line of the streets, or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the commissioners may require the same to be set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, in such manner as the commissioners direct, for the improvement of such street : Provided always, that the commissioners shall make full compensation to the owner of any such house or building for any damage he thereby sustains.

Future projections of houses, &c. to be removed on notice.

LXIX. The commissioners may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign post, sign iron, showboard, window shutter, wall, gate or fence, or any other obstruction or projection erected or placed, after the passing of the special act, against or in front of any house or building within the limits of the special act, and which is an obstruction to the safe and convenient passage along any street ; and such occupier shall, within fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the commissioners, and in default thereof shall be liable to a penalty not exceeding forty shillings ; and the commissioners in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages : Provided always, that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

Commis-



LXX. If any such obstructions or projections were erected or placed

against or in front of any house or building in any such street before the passing of the special act, the commissioners may cause the same to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be thirty days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.

sioners may cause existing projections to be removed, and compensation to be made.

Doors in future to be made to open inwards.

LXXI. All doors, gates, and bars put up after the passing of the special act within the limits thereof, and which open upon any street, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the commissioners allow such doors, gates, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, or bar be hung or placed so as to open outwards on any street, the occupier of such house, building, yard, or land shall, within eight days after notice from the commissioners to that effect, cause the same to be altered so as not to open outward; and in case he neglect so to do, the commissioners may make such alteration, and the expenses of such alteration shall be paid to the commissioners by such occupier, and shall be recoverable from him as damages, and he shall, in addition, be liable to a penalty not exceeding forty shillings.

Doors opening outwards may be altered.

LXXII. If any such door, gate, or bar was before the passing of the special act hung so as to open outwards upon any street, the commissioners may alter the same, so that no part thereof when open shall project over any public way.

Coverings for cellar doors to be made by occupier.

LXXIII. When any opening is made in any pavement or footpath within the limits of the special act, as an entrance into any vault or cellar, a door or covering shall be made by the occupier of such vault or cellar, of iron or such other materials, and in such manner as the commissioners direct, and such door or covering shall from time to time be kept in good repair by the occupier of such vault or cellar; and if such occupier do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the directions of the commissioners, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for neglect.

Waterspouts to be affixed to houses or buildings.

LXXIV. The occupier of every house or building in, adjoining, or near to any street shall, within seven days next after service of an order of the commissioners for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath; and in default of compliance with any such order within the period aforesaid such occupier shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default.

*Ruinous or dangerous buildings.*

And with respect to ruinous or dangerous buildings, be it enacted as follows:

Ruinous or dangerous buildings to be taken down or secured by owners, &c.

LXXV. If any building or wall, or anything affixed thereon, within the limits of the special act, be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings, such surveyor shall immediately cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner

or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before two justices, and it shall be lawful for such justices to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same or such part thereof as appears to them to be in a dangerous state, within a time to be fixed by such justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the commissioners shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof.

If owner, &c., neglect to repair, commissioners may cause the same to be done, charging owner, &c. with the expenses.

LXXVI. If such owner can be found within the limits of the special act, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any justice may issue his warrant accordingly.

The expenses to be levied by distress on the owner.

LXXVII. If such owner cannot be found within the said limits, or sufficient distress of his goods and chattels within the said limits cannot be made, the commissioners, after giving twenty-eight days' notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building or on the land whereon such building stood, may take such building or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Consolidation Act, 1845, in the case of lands taken otherwise than with the consent of the owners and occupiers thereof, and the commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this act.

If owner cannot be found, commissioners may take the house or ground, making compensation provided by 7 & 8 Vict. c. 18.

LXXVIII. If any such house or building as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building; and the commissioners shall restore any overplus arising from such sale to the owner of such house or building, on demand; nevertheless, the commissioners, although they sell such materials for the purpose aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Commissioners may sell the materials, restoring to the owner overplus arising from the sale.

And with respect to precautions during the construction and repair of the sewers, streets, and houses, be it enacted as follows:

*Precautions during repairs.*

LXXIX. The commissioners shall, during the construction or repair of any of the streets vested in them, and during the construction or repair of any sewers or drains, take proper precaution for guarding against accident, by shoreing-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper; and the commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night, so as to prevent accidents; and

Bars to be erected across streets while repairs or alterations are making, and lights placed at night.

10 & 11 Vict. c. 34.

every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the commissioners, shall for every such offence be liable to a penalty not exceeding five pounds.

Hoards to be set up during repairs.

LXXX. Every person intending to build or take down any building within the limits of the special act, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall before beginning the same cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing and in good condition to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who fails to put up such fence or hoard, or platform with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid, during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same, when directed by the commissioners, within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Penalty for not lighting deposits of building materials or excavations.

LXXXI. When any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising, while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and inclosed until such materials or other things are removed or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Penalty for continuing deposits of building materials or excavations an unreasonable time.

LXXXII. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding five pounds to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a further penalty not exceeding forty shillings for every day during which such offence is continued after the conviction for such offence; and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Dangerous places to be repaired or inclosed.

LXXXIII. If any building or hole or any other place near any street be, for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the commissioners shall cause the same to be repaired, protected, or inclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or inclosure shall be repaid to the commissioners by the owner of the premises so repaired, protected, or inclosed, and shall be recoverable from him as damages.

*Smoke.*

And with respect to the prevention of smoke, be it enacted as follows:

Fireplaces of factories,

CVIII. Every fireplace or furnace constructed after the passing of the special act, in order to be used within the limits of such act in the

working of engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, gaswork, or in any manufactory whatsoever (although a steam-engine be not used or employed therein), shall be so constructed as to consume the smoke arising from the combustibles used in such fireplace or furnace; and every such fireplace or furnace existing within the said limits at the date of the passing of the special act, used for the purposes aforesaid, not so constructed as to consume the smoke arising from such fireplace or furnace, shall within the prescribed period, or, if no period be prescribed, then within two years after the passing of the special act, be so altered in its construction as to consume such smoke; and if after such period any person use for any of the purposes aforesaid any fireplace or furnace not so constructed as aforesaid, or if at any time any person use any such fireplace or furnace constructed after the passing of the special act, and not so constructed as aforesaid, or so negligently use any such fireplace or furnace as not to consume the smoke arising from the combustibles used therein, every person so offending shall be liable to a penalty of forty shillings for every day during any part of which such furnace or fireplace shall be so used and continued after one month's notice in writing shall have been given to the owner or occupier of such furnace or fireplace by the commissioners to remedy or discontinue the use of the same.

&c., to consume their own smoke.

*Water.*

And with respect to the supply of water, be it enacted as follows:

Power to commissioners to construct public cisterns and pumps for supply of water to baths and wash-houses.

CXXI. The commissioners shall cause all existing public cisterns, pumps, wells, conduits, and other waterworks used for the gratuitous supply of water to the inhabitants within the limits of the special act, to be continued, maintained, and supplied with water, or they shall substitute other such works equally convenient, and shall cause them to be maintained and supplied with water, and such public cisterns and other works shall be vested in the commissioners, and be under their management and control; and the commissioners may construct any number of new cisterns, pumps, conduits, and other waterworks, for the gratuitous use of any persons who choose to carry the same away, not for sale, but for their own private use, and may supply with water any public baths or wash-houses.

Commissioners may contract for supply of water.

CXXII. The commissioners may contract for the prescribed period, or (where no period shall be prescribed) for any period not exceeding three years at one time, with the owners of any waterworks or any other person for such supply of water as the commissioners shall think necessary for the purposes of this or the special act.

For ascertaining price to be paid for water in case of dispute.

CXXIII. If the commissioners, and the owners of any waterworks authorised by act of parliament to supply water within the limits of the special act, with whom the commissioners may be desirous of contracting, do not agree as to the price to be paid for such supply, then such price (except where by the act authorising such waterworks some other mode of determining such price shall be provided) shall be settled by arbitration, and for that purpose the clauses of the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this and the special act.

Commissioners to cause fireplugs, &c to be provided and maintained.

CXXIV. The commissioners shall cause fireplugs, and all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire, to be provided and maintained, and for this purpose they may enter into any agreement with any water company or other party, and they shall paint or mark on the buildings and walls within the streets words or marks near to such fireplugs to denote the situation thereof, and do such other things for the purposes aforesaid as they may from time to time deem expedient.

*Slaughter-houses.*

And with respect to slaughter-houses, be it enacted as follows:

Commissioners may license slaughter-houses, &c.

CXXV. The commissioners may license such slaughter-houses and

10 & 11 Vict. c. 34.

knackers' yards as they from time think proper for slaughtering cattle within the limits of the special act.

No new slaughter-houses, in future to be erected without a licence.

CXXVI. No place shall be used or occupied as a slaughter-house or knacker's yard within the said limits which was not in such use and occupation at the time of the passing of the special act, and has so continued ever since, unless and until a licence for the erection thereof, or for the use and occupation thereof as a slaughter-house or knacker's yard, have been obtained from the commissioners; and every person who, without having first obtained such licence as aforesaid, uses as a slaughter-house or knacker's yard any place within the said limits not used as such at the passing of the special act, and so continued to be used ever since, shall for each offence be liable to a penalty not exceeding five pounds, and a like penalty for every day after the conviction for such offence upon which the said offence is continued.

Existing slaughter-houses, &c., to be registered.

CXXVII. Every place within the limits of the special act which shall be used as a slaughter-house or knacker's yard shall, within three months after the passing of such act, be registered by the owner or occupier thereof at the office of the commissioners, and on application to the commissioners for that purpose the commissioners shall cause every such slaughter-house or knacker's yard to be registered in a book to be kept by them for that purpose; and every person who after the expiration of the said three months, and after one week's notice of this provision from the commissioners, uses or suffers to be used any such place as a slaughter-house or knacker's yard, without its being so registered, shall be liable to a penalty not exceeding five pounds for such offence, and a penalty not exceeding ten shillings for every day after the first day during which such place shall be used as a slaughter-house or knacker's yard without having been so registered.

Commissioners may make bye-laws for regulation of slaughter-houses, &c.

CXXVIII. The commissioners shall from time to time, by byelaws, to be made and confirmed in the manner hereinafter provided, make regulations for the licensing, registering, and inspection of the said slaughter-houses and knackers' yards, and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such byelaws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuing nuisance the sum of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence.

Justices may suspend licence of slaughter-houses, &c., in addition to penalty imposed.

CXXIX. The justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the special act, or of the non-observance of any of the byelaws or regulations made by virtue of this or the special act, in addition to the penalty imposed on such person under the authority of this or the special act, may suspend for any period not exceeding two months the licence granted to such person under this or the special act, or in case such person be the owner or proprietor of any registered slaughter-house or knacker's yard, may forbid for any period not exceeding two months the slaughtering of cattle therein; and such justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the special act, declare the licence granted under this or the special act revoked, or, if such person be the owner or proprietor of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein; and whenever the licence of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter-house or knacker's yard is absolutely forbidden as aforesaid, the commissioners may refuse to grant any licence whatever to the person whose licence has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter-house has been forbidden.

Penalty for slaughtering cattle during suspension of licence, &c.

CXXX. Every person who during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter-house or knacker's yard to which such licence relates, or otherwise uses such slaughter-house or knacker's yard, or allows the same to be used as a slaughter-house or knacker's yard, and every person who during the period that the slaughtering of cattle in any such registered slaughter-house or knacker's yard is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered slaughter-house, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence.

Officers may enter and inspect slaughter-houses, &c.

CXXXI. The inspector of nuisances, the officer of health, or any other officer appointed by the commissioners for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any building or place whatsoever within the said limits kept or used for the sale of butcher's meat, or for slaughtering cattle, and examine whether any cattle, or the carcase of any such cattle, is deposited there, and in case such officer shall find any cattle, or the carcase or part of the carcase of any beast, which appears unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons; and in case upon such inspection and examination, such cattle, carcase, or part of a carcase be found to be unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and such justice may adjudge the person to whom such cattle, carcase or part of a carcase, belongs, or in whose custody the same is found, to pay a penalty not exceeding ten pounds for every such animal, or carcase or part of a carcase, so found; and the owner or occupier of any building or place kept or used for the sale of butcher's meat, or for slaughtering cattle, and every other person who obstructs or hinders such inspector or other officer from entering into and inspecting the same, and examining, seizing, or carrying away any such animal, or carcase or part of a carcase, so appearing to be unfit for the food of man, shall be liable to a penalty not exceeding five pounds for each offence.

*Clocks.*

Power to commissioners to provide public clocks.

CXLIII. And with respect to clocks, be it enacted, that the commissioners may from time to time provide such clocks as they consider necessary, and cause them to be fixed upon or against any public building, or, with the consent of the owner and occupier, upon or against any private building the situation of which may be convenient for that purpose, and may cause the dials thereof to be lighted at night, and from time to time alter and remove any such clocks to such other like situation as they shall consider expedient.

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## 10 & 11 VICT. c. 61.



*An Act to amend the Act for the Establishment of public Baths and Wash-houses* (*a*). [2nd July, 1847.]

WHEREAS an act was passed in the last session of parliament, intituled "An Act to encourage the Establishment of public Baths and Wash-houses" (*b*): And whereas it is expedient to afford additional facilities

9 & 10 Vict. c. 74.

(*a*) See "Baths and Wash-houses," p. 48.
(*b*) See 9 & 10 Vict. c. 74, p. 207.

10 & 11 Vict. c. 61.

for the establishment of public baths and wash-houses and open bathin places: Be it enacted by the Queen's most excellent Majesty, by and wit the advice and consent of the Lords spiritual and temporal, and Common in this present parliament assembled, and by the authority of the same that the recited act, as amended by this act, and this act, shall be con strued and be carried into execution as one act.

Recited act and this act to be construed as one.

Interpretation of expressions in recited act and this act.

II. And be it enacted and declared, that the following words and ex pressions in the recited act shall have in the said act and this act th several meanings hereby assigned to them, unless there be something i the subject or context repugnant to such construction (that is to say),

"Parish" shall mean not only every place having separate overseers o the poor and separately maintaining its own poor, but also every plac maintaining its own poor and having a vestry:

"Ratepayers" shall mean all persons for the time being assessed to an paying rates for the relief of the poor of the parish:

"Vestry" shall mean not only a vestry as defined in the said act, b also any body of persons, by whatever name distinguished, acting virtue of any act of parliament, prescription, custom, or otherwise or instead of a vestry or select vestry.

Acts of commissioners of public baths, &c., to be valid, notwithstanding informalities.

III. And be it enacted, that when any person shall have been appoin to the office of commissioners of public baths and wash-houses for parish before the passing of this act, the recited act shall be deeme have been duly adopted for such parish, notwithstanding that there have been any defect or irregularity in or in any way concerning adoption; and all acts and proceedings of any person in possession of office of such commissioner, and acting in good faith as such commissio whether appointed before or after the passing of this act, shall, not standing his disqualification or want of qualification for or any defe irregularity in or in any way concerning his appointment to such offic as valid and effectual as if he were duly qualified or there had not any such defect or irregularity.

Incorporation of 8 & 9 Vict. c. 18. Council, &c., not to take lands, &c.

IV. And be it enacted, that the Lands Clauses Consolidation 1845 (a), shall be incorporated with the recited act and this act: prov always, that the council and commissioners respectively shall not purc or take any lands otherwise than by agreement.

Proportion of washing accommodation for labouring classes.

V. And be it enacted, that the number of washing tubs or trough the labouring classes in any building or buildings under the manageme the same council or commissioners shall not be less than twice the nu of the washing tubs or troughs of any higher class, if but one, or of al higher classes if more than one, in the same building or buildings.

So much of recited act as regulates charges for use of baths, &c., repealed.

VI. And be it enacted, that so much of the recited act as enacts the council and commissioners respectively may make such reason charges for the use of the baths and wash-houses and open bathing p as they think fit, not exceeding such charges as are mentioned in schedule (B.) to that act, shall be repealed.

Power to make charges for use of baths, &c., not exceeding those in the schedule.

VII. And be it enacted, that the council and the commissioners re tively may from time to time make such reasonable charges for the u the baths and wash-houses and open bathing places provided under recited act and this act respectively as they think fit, not exceedin charges mentioned in the schedule annexed to this act.

Act may be amended, &c.

VIII. And be it enacted, that this act may be amended or repeale any act to be passed in this session of parliament.

(a) See note, p. 118.

SCHEDULE to which this act refers. 10 & 11 Vict. c. 61.

*arges for the Baths and Wash-houses and open Bathing Places.*

1. Baths for the Labouring Classes.

ry bath to be supplied with clean water for every person bathing or for several children bathing together, and in either case with one towel for every bather.

For one person above eight years old:

| | |
|---|---|
| Cold bath, or cold shower bath, any sum not exceeding . . . . . | One penny. |
| Warm bath, or warm shower bath, or vapour bath, any sum not exceeding . | Two-pence. |

For several children, not above eight years old, not exceeding four, bathing together:

| | |
|---|---|
| Cold bath, or cold shower bath, any sum nor exceeding . . . . . | Two-pence. |
| Warm bath, or warm shower bath, or vapour bath, any sum not exceeding . | Four-pence. |

2. Baths of any higher Class.

h charges as the council and the commissioners respectively think fit, ceeding in any case three times the charges above mentioned for the l kinds of baths for the labouring classes.

3. Wash-houses for the Labouring Classes.

ry wash-house to be supplied with conveniences for washing and ; clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying:

| | |
|---|---|
| For one hour only in any one day, any sum not exceeding . . . . | One penny. |
| For two hours together, in any one day, any sum not exceeding . . . | Three-pence. |

time over the hour or two hours respectively, if not exceeding five s not to be reckoned.

two hours not together, or for more than two hours in any one day, harges as the council and the commissioners respectively think fit.

the use of the washing conveniences alone, or of the drying con- ces alone, such charges as the council and the commissioners respec- think fit, but not exceeding in either case the charges for the use for me time of both the washing and the drying conveniences.

4. Wash-houses of any higher Class.

h charges as the council and the commissioners respectively think fit.

5. Open Bathing Places.

Where several persons bathe in the same water:

| | |
|---|---|
| For one person . . . . . | One halfpenny. |

## 10 & 11 Vict. c. 89.

10 & 11 Vict. c. 89.

*An Act for consolidating in One Act certain Provisions usi contained in Acts for regulating the Police of Towns (a*

[22nd July, 18

Whereas it is expedient to comprise in one act sundry provisions us contained in acts of parliament for regulating the police of towns populous districts, and that as well for avoiding the necessity of repe such provisions in each of the several acts relating to such towns or tricts as for ensuring greater uniformity in the provisions themselves it enacted by the Queen's most excellent Majesty, by and with the a and consent of the Lords spiritual and temporal, and Commons, in present parliament assembled, and by the authority of the same, that

Extent of act.

act shall extend only to such towns or districts in England or Irelan shall be comprised in any act of parliament hereafter to be passed w shall declare that this act shall be incorporated therewith; and all clauses of this act, save so far as they shall be expressly varied or exce by any such act, shall apply to the town or district which shall be c prised in such act, and to the commissioners appointed for improving regulating the same, so far as such clauses shall be applicable the respectively, and shall, with the clauses of every other act which shal incorporated therewith, form part of such act, and be construed there as forming one act.

Interpretations in this act:

And with respect to the construction of this act, whether incorpor in whole or in part with any other act, and of any act incorporated t with, be it enacted as follows:

"the special act:"

II. The expression "the special act" used in this act shall be const to mean any act which shall be hereafter passed for the improvemen regulation of any town or district defined or comprised therein, and

"prescribed:"

which this act shall be incorporated; and the word "prescribed," use this act in reference to any matter herein stated, shall be construe refer to such matter as the same shall be prescribed or provided for in special act, and the sentence in which such word shall occur shall be strued as if, instead of the word "prescribed," the expression "prescr for that purpose in the special act" had been used; and the expre

"the commissioners."

"the commissioners" shall mean the commissioners, trustees, or c persons or body corporate intrusted by the special act with power executing the purposes thereof.

Interpretations in this and the special act:

III. The following words and expressions, in both this and the sp act, and any act incorporated therewith, shall have the meanings he assigned to them, unless there be something in the subject or con repugnant to such construction (that is to say),

number:

Words importing the singular number shall include the plural nun and words importing the plural number shall include the sing number:

gender:

Words importing the masculine gender shall include females:

"person:"

The word "person" shall include a corporation, whether aggregat sole:

"lands:"

The word "lands" shall include messuages, lands, tenements, hereditaments of any tenure:

"street:"

The word "street" shall extend to and include any road, square, c alley, and thoroughfare or public passage within the limits of special act:

"month:"

The word "month" shall mean calendar month:

(a) Provisions incorporated by 21 & 22 Vict. c. 98, s. 50, *post*.

The expression "superior courts" shall mean her majesty's superior courts of record at Westminster or Dublin, as the case may require, and shall include the court of Common Pleas of the county Palatine of Lancaster and the court of Common Pleas of the county of Durham. 10 & 11 Vict. c. 89. "superior courts:"

The word "oath" shall include affirmation in the case of quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath: "oath:"

The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town: "county:"

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognisance of any such justice arises; and where any matter shall be authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together: "justice:" "two justices:"

The expression "quarter sessions" shall mean quarter sessions as defined in the special act, and if such expression be not there defined, shall mean the general or quarter sessions of the peace which shall be held in or at the place nearest to the district comprised within the special act for the county in which such district or some part thereof is situated, or for some division of such county having a separate commission of the peace: "quarter sessions:"

The word "cattle" shall include horses, asses, mules, sheep, goats, and swine. "cattle."

And with respect to citing this act, or any part thereof, be it enacted as follows:

IV. In citing this act in other acts of parliament, and in legal instruments, it shall be enough to use the expression "The Town Police Clauses Act, 1847." Short title of the act.

V. For the purpose of incorporating part only of this act with any act hereafter to be passed it shall be enough to describe the clauses of this act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this act, with the exception of the clauses so described, shall be incorporated with such act; and thereupon all the clauses of this act so incorporated shall, save so far as they are expressly varied or excepted by such act, form part of such act, and such act shall be construed as if such clauses were set forth therein with reference to the matter to which such act relates. Form in which portions of this act may be incorporated with other acts.

And with respect to obstructions and nuisances in the streets, be it enacted as follows: *Obstructions and nuisances.*

XXI. The commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets within the limits of the special act, in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort, and every wilful breach of any such order shall be deemed a separate offence against this act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings. Power to prevent obstructions in the streets during public processions, &c.

XXII. On application to the commissioners by the minister or churchwardens or chapelwardens of any church, chapel, or other place of public worship within the limits of the special act, the commissioners may make orders for regulating the route by which persons shall drive any cart or carriage, or cattle, or the manner in which they shall drive them, in the neighbourhood of such places of worship, during the hours of divine service Power to regulate the route of persons driving stage carriages, &c., during

10 & 11 VICT. c. 89.

on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving, and any orders so made shall be printed and put up on or near the church, chapel, or place of public worship to which the same refer, and in some conspicuous places near and leading thereto, and elsewhere as the commissioners direct, and every wilful breach of any such order shall be deemed a separate offence against this act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings.

divine service.

Proprietors of stage carriages deviating from route by order free from penalty.

XXIII. No proprietor of any stage carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation from the route or line of route specified in his licence which the driver of such stage carriage makes in consequence of any regulation or direction made or given by the commissioners.

Power to impound stray cattle.

XXIV. If any cattle be at any time found at large in any street within the limits of the special act, without any person having the charge thereof, any constable or officer of police, or any person residing within the limits of the special act, may seize and impound such cattle in any common pound within the said limits, or in such other place as the commissioners appoint for that purpose, and may detain the same therein until the owner thereof pay to the commissioners a penalty not exceeding forty shillings, besides the reasonable expenses of impounding and keeping such cattle.

Power to sell stray cattle for penalty and expenses.

XXV. If the said penalty and expenses be not paid within three days after such impounding, the pound-keeper or other person appointed by the commissoners for that purpose, may proceed to sell or cause to be sold any such cattle; but previous to such sale seven days' notice thereof shall be given to or left at the dwelling-house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement to be inserted seven days before such sale in some newspaper published or circulated within the limits of the special act; and the money arising from such sale, after deducting the said sums, and the expenses aforesaid, and all other expenses attending the impounding, advertising, keeping, and sale of any such cattle so impounded, shall be paid to the commissioners, and shall be by them paid, on demand, to the owner of the cattle so sold.

Persons guilty of pound-breach to be committed for three months.

XXVI. Every person who releases or attempts to release any cattle from any pound or place where the same are impounded under the authority of this or the special act, or who pulls down, damages, or destroys the same pound or place, or any part thereof, with intent to procure the unlawful release of such cattle, shall, upon conviction of such offence before any two justices, be committed by them to some common gaol or house of correction for any time not exceeding three months.

Power to provide a pound.

XXVII. The commissioners may purchase a piece of land within the limits of the special act, for the purpose of a pound for stray animals, and may erect a pound thereon, and such pound when made shall be kept in repair by the commissioners.

Penalty on persons committing any of the offences herein named.

XXVIII. Every person who in any street, to the obstruction, annoyance, or danger of the residents or passengers, commits any of the following offences, shall be liable to a penalty not exceeding forty shillings for each offence, or, in the discretion of the justice before whom he is convicted, may be committed to prison, there to remain for a period not exceeding fourteen days; and any constable or other officer appointed by virtue of this or the special act shall take into custody, without warrant, and forthwith convey before a justice, any person who within his view commits any such offence (that is to say),

Every person who exposes for show, hire, or sale (except in a market or market place or fair lawfully appointed for that purpose) any horse or other animal, or exhibits in a caravan or otherwise any show or public entertainment, or shoes, bleeds, or farries any horse or animal (except in cases of accident), or cleans, dresses, exercises, trains, or breaks,

or turns loose any horse or animal, or makes or repairs any part of any cart or carriage (except in cases of accident where repair on the spot is necessary):

Every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal:

Every owner of any dog who suffers such dog to go at large, knowing or having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state:

Every person who, after public notice given by any justice directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice:

Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot:

Every person having the care of any waggon, cart, or carriage who rides on the shafts thereof, or who without having reins, and holding the same, rides upon such waggon, cart, or carriage, or on any animal drawing the same, or who is at such a distance from such waggon, cart, or carriage, as not to have due control over every animal drawing the same, or who does not, in meeting any other carriage, keep his waggon, cart, or carriage to the left or near side, or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation), or who by obstructing the street, wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care:

Every person who at one time drives more than two carts or waggons, and every person driving two carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than four feet:

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle:

Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except hackney carriages, and horses and other beasts of draught or burden, standing for hire in any place appointed for that purpose by the commissioners or other lawful authority), and every person who by means of any cart, carriage, sledge, truck, or barrow, or any animal, or other means, wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare:

Every person who causes any tree or timber or iron beam to be drawn in or upon any carriage without having sufficient means of safely guiding the same:

Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway:

Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or showboard on any footway, or who places any blind, shade, covering, awning, or other projection over or along any such footway, unless such blind, shade, covering, awning, or other projection is eight feet in height at least in every part thereof from the ground:

10 & 11 VICT. c. 89.

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandise, matter, or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house, shop, or building at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway :

Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway :

Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon :

Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution :

Every person who wilfully and indecently exposes his person :

Every person who publicly offers for sale or distribution, or exhibits to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language :

Every person who wantonly discharges any fire-arm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework :

Every person who wilfully and wantonly disturbs any inhabitant, by pulling or ringing any door bell, or knocking at any door, or who wilfully and unlawfully extinguishes the light of any lamp :

Every person who flies any kite, or who makes or uses any slide upon ice or snow :

Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime :

Every person who throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials so inclosed as to prevent mischief to passengers) :

Every person who beats or shakes any carpet, rug, or mat (except door mats, beaten or shaken before the hour of eight in the morning) :

Every person who fixes or places any flower pot, or box, or other heavy article, in any upper window, without sufficiently guarding the same against being blown down :

Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger :

Every occupier of any house or other building or other person who orders or permits any person in his service to stand on the sill of any window, in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building within the said limits, unless such window be in the sunk or basement story :

Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or cellar, or who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto :

Every person who throws or lays any dirt, litter, or ashes, or nightsoil, or any carrion, fish, offal, or rubbish, on any street, or causes any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dunghill into any street (*a*) : provided

(*a*) *i.e.* Within the district prescribed in the special act, *Flight* v. *Clarke*, 13 M. & W. 155.

always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost, to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases : 10 & 11 Vict. c. 89.

Every person who keeps any pigstye to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance.

Penalty on drunken persons, &c., guilty of riotous or indecent behaviour.

XXIX. Every person drunk in any street, and guilty of any riotous or indecent behaviour therein, and also every person guilty of any violent or indecent behaviour (*a*) in any police office or any police station house within the limits of the special act, shall be liable to a penalty not exceeding forty shillings for every such offence, or, in the discretion of the justice before whom he is convicted, to imprisonment for a period not exceeding seven days.

*Fires.*

And with respect to fires, be it enacted as follows :

Penalty for setting chimneys wilfully on fire.

XXX. Every person who wilfully sets or causes to be set on fire any chimney within the limits of the special act shall be liable to a penalty not exceeding five pounds : provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony.

Penalty for accidentally allowing chimneys to catch fire.

XXXI. If any chimney accidentally catch or be on fire within the said limits, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding ten shillings : provided always, that such forfeiture shall not be incurred if such person prove to the satisfaction of the justice before whom the case is heard that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant.

Fire engines and firemen may be provided by the commissioners.

XXXII. The commissioners may purchase or provide such engines for extinguishing fire, and such water buckets, pipes, and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines as they think fit, and may build, provide, or hire places for keeping such engines with their appurtenances, and may employ a proper number of persons to act as firemen, and may make such rules for their regulation as they think proper, and give such firemen and other persons such salaries and such rewards for their exertions in cases of fire, as they think fit.

Fire police permitted to go beyond the limits of the act in certain cases.

XXXIII. The commissioners may send such engines, with their appurtenances, and the said firemen, beyond the limits of the special act, for extinguishing fire in the neighbourhood of the said limits ; and the owner of the lands or buildings where such fire shall have happened shall in such case defray the actual expense which may be thereby incurred, and shall also pay to the commissioners a reasonable charge for the use of such engines, with their appurtenances, and for the attendance of such firemen ; and in case of any difference between the commissioners and the owner of the said lands or buildings, the amount of the said expenses and charge, as well as the propriety of sending the said engines and firemen as aforesaid for extinguishing such fire (if the propriety thereof be disputed), shall be determined by two justices, whose decision shall be final ; and the amount of the said expenses and charge shall be recovered by the commissioners as damages.

*Places of public resort.*

And with respect to places of public resort, be it enacted as follows :

Penalty on

XXXIV. Every victualler or keeper of any public house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors by retail, to be drunk or consumed on the premises, within the

(*a*) *Martin* v. *Pidgeon*, 28 L. J., M. C. 179.

10 & 11 Vict. c. 89.

limits of the special act, who knowingly harbours or entertains or suffers to remain in his public house or place wherein he carries on his business any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding twenty shillings.

Victuallers harbouring constables while on duty.

Penalty on coffee-shop keepers harbouring disorderly persons.

XXXV. Every person keeping any house (*a*), shop, room, or other place of public resort within the limits of the special act, for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble at and continue in his premises, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on persons keeping places for bear-baiting, cock-fighting, &c.

XXXVI. Every person who within the limits of the special act keeps or uses or acts in the management of any house, room, pit, or other place for the purpose of fighting, baiting, or worrying any animals, shall be liable to a penalty of not more than five pounds, or in the discretion of the justices before whom he is convicted, to imprisonment, with or without hard labour, for a time not exceeding one month; and the commissioners may by order in writing, authorise the superintendent constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding five shillings, and a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequence to which he is liable for the nuisance thereby occasioned.

*Hackney carriages.*

And with respect to hackney carriages, be it enacted as follows:

Hackney carriages to be licensed.

XXXVII. The commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special act refers, (which in that case shall be deemed the prescribed distance), such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit.

What to be hackney carriages.

XXXVIII. Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this act; and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe any such carriage: provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this act.

Fee to be paid for licence.

XXXIX. For every such licence there shall be paid to the clerk of the commissioners, or other person appointed by them to receive the same, such sum as the commissioners direct, not exceeding five shillings.

Persons applying for licence to sign a requisition for same.

XL. Before any such licence is granted a requisition for the same in such form as the commissioners from time to time provide for that purpose shall be made and signed by the proprietor or one of the proprietors of the hackney carriage in respect of which such licence is applied for, and in every such requisition shall be truly stated the name and surname and place of abode of the person applying for such licence, and of every proprietor or

(*a*) A licensed alehouse is within this section. *Cole* v. *Coulton*, 29 L. J., M. C. 125.

part proprietor of such carriage, or person concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of such carriage; and any person who, on applying for such licence, states in such requisition the name of any person who is not a proprietor or part proprietor of such carriage, or who is not concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, and also any person who wilfully omits to specify truly in such requisition as aforesaid the name of any person who is a proprietor or part proprietor of such carriage, or who is concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, shall be liable to a penalty not exceeding ten pounds.

What shall be specified in the licences.

XLI. In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit.

Licences to be registered.

XLII. Every licence shall be made out by the clerk of the commissioners and duly entered in a book to be provided by him for that purpose, and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage, and any person may at any reasonable time inspect such book without fee or reward.

Licence to be in force for one year only.

XLIII. Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or if not incorporated shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners.

Notice to be given by proprietors of hackney carriages of any change of abode.

XLIV. So often as any person named in any such licence as the proprietor or one of the proprietors, or as being concerned either solely or in partnership with any person in the keeping, employing, or letting to hire of any such carriage, changes his place of abode, he shall, within seven days next after such change, give notice thereof in writing signed by him to the commissioners, specifying in such notice his new place of abode; and he shall at the same time produce such licence at the office of the commissioners, who shall, by their clerk or some other officer, endorse thereon, and sign a memorandum specifying the particulars of such change, and any person named in any such licence as aforesaid as the proprietor or one of the proprietors of any hackney carriage, or as being concerned as aforesaid, who changes his place of abode, and neglects or wilfully omits to give notice of such change, or to produce such licence in order that such memorandum as aforesaid may be endorsed thereon, within the time and in the manner limited and directed by this or the special act, shall be liable to a penalty not exceeding forty shillings.

Penalty for plying for hire without a licence.

XLV. If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance, without having obtained a licence as aforesaid for such carriage, or during the time that such licence is suspended as hereinafter provided, or if any person be found driving, standing, or plying for hire with any carriage within the prescribed distance for which such licence as aforesaid has not been previously obtained, or without having the number of such carriage corresponding with the number of the licence openly displayed on such carriage, every such person so offending shall for every such offence be liable to a penalty not exceeding forty shillings.

Drivers not to act with-

XLVI. No person shall act as driver of any hackney carriage licensed in pursuance of this or the special act to ply for hire within the prescribed

10 & 11 Vict. c. 89.

distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, and a fee of one shilling shall be paid for the same; and every such licence shall be in force until the same is revoked, except during the time that the same may be suspended as after mentioned.

out first obtaining a licence.

Penalty on drivers acting without licence.

XLVII. If any person acts as such driver as aforesaid without having obtained such licence or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended as hereinafter provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty not exceeding twenty shillings.

Proprietor to retain licence of drivers when in his employ, and to produce the same when summoned.

XLVIII. In every case in which the proprietor of any such hackney carriage permits or employs any licensed person to act as the driver thereof, such proprietor shall cause to be delivered to him, and shall retain in his possession, the licence of such driver while such driver remains in his employ; and in all cases of complaint, where the proprietor of a hackney carriage is summoned to attend before a justice, or to produce the driver, the proprietor so summoned shall also produce the licence of such driver, if he be then in his employ; and if any driver complained of be adjudged guilty of the offence alleged against him, such justice shall make an endorsement upon the licence of such driver, stating the nature of the offence and the amount of the penalty inflicted; and if any such proprietor neglect to have delivered to him, and to retain in his possession, the licence of any driver while such driver remains in his employ, or if he refuse or neglect to produce such licence as aforesaid, such proprietor shall for every such offence be liable to a penalty not exceeding forty shillings.

Justices may endorse convictions upon licences.

Penalty on proprietors for neglect.

Proprietor to return licence to drivers when quitting his service if they behave well, if otherwise, proprietors to summon them.

XLIX. When any driver leaves the service of the proprietor by whom he is employed without having been guilty of any misconduct, such proprietor shall forthwith return to such driver the licence belonging to him; but if such driver have been guilty of any misconduct, the proprietor shall not return his licence, but shall give him notice of the complaint which he intends to prefer against him, and shall forthwith summon such driver to appear before any justice to answer the said complaint; and such justice, having the necessary parties before him, shall inquire into and determine the matter of complaint; and if upon inquiry it appear that the licence of such driver has been improperly withheld, such justice shall direct the immediate re-delivery of such licence, and award such sum of money as he thinks proper to be paid by such proprietor to such driver by way of compensation.

Compensation in case of licence being improperly withheld.

Licences to be suspended or revoked for misconduct.

L. The commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special act with respect to hackney carriages, or any bylaw made in pursuance thereof, suspend or revoke, as they deem right, the licence of any such proprietor or driver.

Number of persons to be carried in a hackney carriage to be painted thereon.

LI. No hackney carriage shall be used or employed or let to hire, or shall stand or ply for hire, within the prescribed distance, unless the number of persons to be carried by such hackney carriage in words at length, and in form following, (that is to say,) "To carry persons," be painted on a plate placed on some conspicuous place on the outside of such carriage, and in legible letters, so as to be clearly distinguishable from the colour of the ground whereon the same are painted, one inch in length, and of a proportionate breadth; and the driver of any such hackney carriage shall not be required to carry in or by such hackney carriage a greater number of persons than the number painted thereon.

Penalty for neglect or for refusal to carry the

LII. If the proprietor of any hackney carriage permit the same to be used, employed, or let to hire, or if any person stand or ply for hire with such carriage, without having the number of persons to be carried thereby

painted and exhibited in manner aforesaid, or if the driver of any such hackney carriage refuse, when required by the hirer thereof, to carry in or by such hackney carriage the number of persons painted thereon, or any less number, every proprietor or driver so offending shall be liable to a penalty not exceeding forty shillings.

prescribed number.

Penalty on driver for refusing to drive.

LIII. Any driver of a hackney carriage standing at any of the stands for hackney carriages appointed by the commissioners, or in any street, who refuses or neglects, without reasonable excuse, to drive such carriage to any place within the prescribed distance, or the distance to be appointed by any bylaw of the commissioners, not exceeding the prescribed distance to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty for demanding more than the sum agreed for, though less than the legal fare.

LIV. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree beforehand with any person hiring such hackney carriage to take for any job a sum less than the fare allowed by this or the special act, or any bylaw made thereunder, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if he exact or demand for such job more than the fare so agreed upon.

Agreement to pay more than the legal fare not to be binding, and sum paid beyond the proper fare may be recovered back.

LV. No agreement whatever made with the driver, or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any bylaw made under this or the special act, shall be binding on the person making the same; and any such person may, notwithstanding such agreement, refuse, on discharging such hackney carriage, to pay any sum beyond the fare allowed as aforesaid; and if any person actually pay to the driver of any such hackney carriage, whether in pursuance of any such agreement or otherwise, any sum exceeding the fare to which such driver was entitled, the person paying the same shall be entitled, on complaint made against such driver before any justice of the peace, to recover back the sum paid beyond the proper fare, and moreover such driver shall be liable to a penalty for such exaction not exceeding the sum of forty shillings; and in default of the repayment by such driver of such excess of fare, or of payment of the said penalty, such justice shall forthwith commit such driver to prison, there to remain for any time not exceeding one month, unless the said excess of fare and the said penalty be sooner paid.

Driver to carry, under an agreement for a discretionary distance, the distance to which hirer is entitled for the fare.

LVI. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree with any person to carry in or by such hackney carriage persons not exceeding in number the number so painted on such carriage as aforesaid, for a distance to be in the discretion of such proprietor or driver, and for a sum agreed upon, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if the distance which he carries such persons be under that to which they were entitled to be carried for the sum so agreed upon according to the fare allowed by this or the special act, or any bylaw made in pursuance thereof.

Deposit to be made for carriages waiting.

LVII. When any hackney carriage is hired and taken to any place, and the driver thereof is required by the hirer there to wait with such hackney carriage, such driver may demand and receive from such hirer his fare for driving to such place, and also a sum equal to the fare of such carriage for the period, as a deposit over and above such fare, during which he is required to wait as aforesaid, or if no fare for time be fixed by the bylaws, then the sum of one shilling and sixpence for every half hour during which he is so required to wait, which deposit shall be accounted for by such driver when such hackney carriage is finally discharged by such hirer; and if any such driver who has received any such deposit as aforesaid refuses to wait as aforesaid, or goes away or permits such hackney carriage to be driven or taken away without the consent of such hirer, before the expiration of the time for which such deposit was made, or if such driver, on the final discharge of such hackney carriage, refuse duly to account for

Penalty on the driver refusing to wait, or to account for the deposit.

10 & 11 Vict. c. 89.

such deposit, every such driver so offending shall be liable to a exceeding forty shillings.

Overcharge by hackney coachmen, &c., to be included in conviction, and returned to aggrieved party.

LVIII. Every proprietor or driver of any such hackney car convicted of taking as a fare a greater sum than is authorised law made under this or the special act shall be liable to a exceeding forty shillings, and such penalty may be recovered justice; and in the conviction of such proprietor or driver an be included for payment of the sum so overcharged, over and penalty and costs; and such overcharge shall be returned t aggrieved, whose evidence shall be admissible in proof of the sa

Penalty for permitting persons to ride without consent of the hirer.

LIX. Any proprietor or driver of any such hackney carria hired who permits or suffers any person to be carried in or upon or hackney carriage during such hire, without the express consent o hiring the same, shall be liable to a penalty not exceeding twent

No person to act as driver of any carriage without the consent of the proprietor.

LX. No person authorised by the proprietor of any hackney act as driver of such carriage shall suffer any other person to ac of such carriage without the consent of the proprietor there person, whether licensed or not, shall act as driver of any su without the consent of the proprietor; and any person so suffer person to act as driver, and any person so acting as driver w consent as aforesaid, shall be liable to a penalty not exce shillings for every such offence.

Penalty on drivers misbehaving.

LXI. If the driver or any other person having or pretending care of any such hackney carriage be intoxicated while driving such driver or other person, by wanton and furious driving, or b wilful misconduct, injure or endanger any person in his life, property, he shall be liable to a penalty not exceeding five pou default of payment thereof the justice before whom he is convic offence may commit him to prison, there to remain for any time ing two months.

Penalty for leaving carriages unattended at places of public resort.

LXII. If the driver of any such hackney carriage leave it in or at any place of public resort or entertainment, whether it h not, without some one proper to take care of it, any constable away such hackney carriage, and deposit it, and the horse or h nessed thereto, at some neighbouring livery stable or other pl custody; and such driver shall be liable to a penalty not exceed shillings for such offence; and in default of payment of the sa upon conviction, and of the expenses of taking and keeping the sa carriage and horse or horses, the same, together with the harnes thereto, or any of them, shall be sold by order of the justice be such conviction is made: and after deducting from the produce the amount of the said penalty, and of all costs and expenses the proceedings before such justice as of the taking, keeping, the said hackney carriage, and of the said horse or horses an the surplus (if any) of the said produce shall be paid to the pr such hackney carriage.

Damage done by driver may be recovered from the proprietor.

LXIII. In every case in which any hurt or damage has been any person or property as aforesaid by the driver of any carr hire, the justice before whom such driver has been convicted that the proprietor of such carriage shall pay such a sum not five pounds as appears to the justice a reasonable compensati hurt or damage; and every proprietor who pays any such comp aforesaid may recover the same from the driver, and such co shall be recoverable from such proprietor, and by him from such damages.

Improperly standing with carriage; refus-

LXIV. Any driver of any hackney carriage who suffers the san for hire across any street or alongside of any other hackney c who refuses to give way, if he conveniently can, to any other c who obstructs or hinders the driver of any other carriage in ta

setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding twenty shillings.

Driving to give way to, or obstructing any other driver, or depriving him of his fare.

LXV. If the driver of any such hackney carriage be summoned or brought before any justice to answer any complaint or information touching or concerning any offence alleged to have been committed by such driver against the provisions of this or the special act, or any bylaw made thereunder, and such complaint or information be afterwards withdrawn or quashed or dismissed, or if such driver be acquitted of the offence charged against him, the said justice, if he think fit, may order the complainant or informant to pay to the said driver such compensation for his loss of time in attending the said justice touching or concerning such complaint or information as to the said justice seems reasonable; and in default of payment of such compensation the said justice may commit such complainant or informant to prison for any time not exceeding one month, unless the same shall be sooner paid.

Justices empowered to award compensation to drivers for loss of time in attending to answer complaints not substantiated.

LXVI. If any person refuse to pay, on demand, to any proprietor or driver of any hackney carriage, the fare allowed by this or the special act, or any bylaw made thereunder, such fare may, together with costs, be recovered before one justice as a penalty.

Penalty for refusing to pay the fare.

LXVII. Any person using any hackney carriage plying under a licence granted by virtue of this or the special act, who wilfully injures the same, shall for every such offence be liable to a penalty not exceeding five pounds, and shall also pay to the proprietor of such hackney carriage reasonable satisfaction for the damage sustained by the same; and such satisfaction shall be ascertained by the justices before whom the conviction takes place, and shall be recovered by the same means as the penalty.

Penalty damaging carriage.

LXVIII. The commissioners may from time to time (subject to the restrictions of this and the special act) make bylaws for all or any of the purposes following; (that is to say),

Commissioners may make bylaws for regulating hackney carriages.

For regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling:

For regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed:

For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and the placing of check-strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided:

For fixing the stands of such hackney carriages and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance:

For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares:

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

*Bathing.*

And with respect to public bathing, be it enacted as follows:

Bathing machines.

LXIX. Where any part of the sea-shore or strand of any river used as a public bathing-place is within the limits of the special act the commissioners may make bylaws for the following purposes: (that is to say),

For fixing the stands of bathing machines on the sea-shore (*a*) or strand,

(*a*) See note (*a*), p. 49.

10 & 11 Vict. c. 89.

and the limits within which persons of each sex shall be set down
bathing, and within which persons shall bathe:
For preventing any indecent exposure of the persons of the bathers:
For regulating the manner in which the bathing machines shall be u
and the charges to be made for the same:
For regulating the distance at which boats and vessels let to hire for
purpose of sailing or rowing for pleasure shall be kept from pers
bathing within the prescribed limits.

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## 11 & 12 Vict. c. 63.

11 & 12 Vict. c. 63.

*An Act for promoting the Public Health.*

[31st August, 184

Whereas further and more effectual provision ought to be made
improving the sanitary condition of towns and populous places in Engl
and Wales, and it is expedient that the supply of water to such towns a
places, and the sewerage, drainage, cleansing, and paving thereof, shou
as far as practicable, be placed under one and the same local managem
and control, subject to such general supervision as is hereinafter provide
Be it therefore enacted by the queen's most excellent Majesty, by a
with the advice and consent of the lords spiritual and temporal, a
commons, in this present parliament assembled, and by the authority

Parts to which this act may be applied.

the same, that this act may from time to time be applied, in manı
hereinafter provided, to any part of England and Wales, except the pa
next hereinafter mentioned; (that is to say,) the city of London and
liberties thereof, the parts within the limits of certain commissions
sewers bearing date at Westminster the thirtieth day of November in
year of our Lord One thousand eight hundred and forty-seven, also the pa
within the limits of a certain other commission of sewers bearing date
Westminster the fourth day of December in the year last aforesaid,
the parts subject to the jurisdiction of the commissioners acting in
execution of an act of the fifth year of the reign of king George the Four
for (amongst other things) more effectually paving, lighting, watchi
cleansing, and regulating the Regent's Park, and in the execution of
several acts for extending the jurisdiction of such commissioners.

Interpretation of terms:

II. And be it enacted, that in the construction of this act the follow
words and expressions shall have the meanings hereby assigned to th
unless such meanings be repugnant to or inconsistent with the context
subject matter in which such words or expressions occur; (that i
say,)

number:

Words importing the singular number shall include the plural numl
and words importing the plural number shall include the singı
number:

gender:

Words importing the masculine gender shall include females:

"person:"

The word "person" and words applying to any person or indivi
shall apply to and include corporations, whether aggregate or sole

"lands:"
"premises:"

The word "lands" and the word "premises" shall include messua
buildings, lands, and hereditaments (a) of any tenure:

"owner:"

The word "owner" shall mean the person for the time being recei
the rackrent of the lands or premises in connection with which
said word is used, whether on his own account or as agent or truste

(a) As to Fisheries see *Oldaker* v. *Hunt*, 6 De G. MacN. & G. 376; 19 B
485.

any other person, or who would so receive the same if such lands or premises were let at a rackrent : 11 & 12 Vict. c. 63.

The expression "rackrent" shall mean rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises ; and the full net annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rent charge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent : "rackrent."

The word "month" shall mean calendar month : "month :"

The expression "Commissioners of her Majesty's Treasury" shall mean the commissioners of her Majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them (*a*), or the Lord High Treasurer of the United Kingdom of Great Britain and Ireland for the time being : "commissioners of the treasury :"

The expression "superior courts" shall include her majesty's superior courts of record at Westminster, and the Court of Common Pleas of the county palatine of Lancaster and the Court of Pleas of the county of Durham : "superior courts :"

The word "justice" shall mean any justice of the peace acting for the place in which the matter or any part of the matter, as the case may be, requiring the cognisance of the "justice," arises : "justice :"

The expression "two justices" shall mean two or more justices assembled and acting together in petty sessions, or one stipendiary or police magistrate acting in any police court, for the place in which the matter or any part of the matter, as the case may be, requiring the cognisance of "two justices," arises : "two justices :"

The expression "court of general or quarter sessions" shall mean the court of general or quarter sessions of the peace having jurisdiction over the whole or any part of the district or place, as the case may be, in which the matter requiring the cognisance of the "court of general or quarter sessions" arises : "court of general or quarter sessions :"

The word "arbitrators" shall include a single arbitrator ; and the words "arbitrators" and "arbitrator" shall include an umpire : "arbitrators :"

The word "oath" shall mean and include an affirmation in the case of Quakers, and a declaration in the case of persons allowed by law to make a declaration in lieu of an oath : "oaths :"

The expression "corporate borough" shall mean any corporate borough (*b*) mentioned in the schedules annexed to an act passed in the sixth year of the reign of King William the Fourth, intituled "An Act for the Regulation of Municipal Corporations in England and Wales," and any borough (*c*) incorporated by charter granted or to be granted in pursuance of that or any subsequent act : "corporate borough :" 5 & 6 W. 4, c. 76.

The word "district" shall mean the entire area, places, or parts of places comprised within the limits of any district to which this act or any part thereof shall be applied by order in council or provisional order *of the General Board of Health*, sanctioned by parliament : "district :"

The expression "corporate district" shall mean a district in which the powers, authorities, and duties of the local board of health of the district are exercised and executed by the council of a corporate borough : "corporate district :"

The expression "noncorporate district" shall mean a district in which "Noncorporate district :"

(*a*) *Two.* See 12 & 13 Vict. c. 89.
(*b*) City, port, town corporate, &c., and "burgesses" to include *citizens.* See 12 & 13 Vict. c. 94, s. 10.
(*c*) *Ibid.*

the powers, authorities, and duties of the local board of hea district are not exercised and executed by the council of a borough :

"street :" The word "street" shall apply to and include any highway ( a turnpike road), and any road, public bridge (not being bridge), lane, footway, square, court, alley, passage, w thoroughfare or not, and the parts of any such highway, roa lane, footway, square, court, alley, or passage within the any district :

"house :" The word "house" shall include schools, factories, and other in which more than twenty persons are employed at one time

"drain :" The word "drain" shall mean and include any drain of an the drainage of one building only, or premises within t curtilage, and made merely for the purpose of communicati from with a cesspool or other like receptacle for drainage, sewer into which the drainage of two or more buildings or occupied by different persons is conveyed :

"sewer :" The word "sewer" shall mean and include sewers and drains description, except drains to which the word "drain" inter aforesaid applies :

"slaughter-house :" The term "slaughter-house" shall mean and include the build places commonly called slaughter-houses and knackers' ya any building or place used for slaughtering cattle, horses, o of any description for sale :

"water-works company :" The expression "waterworks company" shall mean any cor person, or company of persons supplying or who may hereaft water for their own profit :

"waterworks :" The term "waterworks" shall include streams, springs, wells reservoirs, cisterns, tanks, aqueducts, cuts, sluices, main culverts, engines, and all machinery, lands, buildings, and t supplying or used for supplying water, also the stock in tra waterworks company :

"the local board of health :" The expression "the local board of health" shall mean the authorised to execute in each district all or any of the powers, ties, and duties vested in or imposed upon the local board of h this act :

"the clerk," &c. The expressions "the officer of health," "the clerk," "the tr "the surveyor," "the inspector of nuisances," shall m persons respectively apointed to be or authorized to execute t of the officer of health, clerk, treasurer, surveyor, and ins nuisances respectively in each district for the purposes of this

Mode of citing this act. III. And be it enacted, that in citing this act in other acts o ment, and in legal instruments and other proceedings, it shall be to use the words "The Public Health Act, 1848."

General board of health. *General board of health to be constituted.* IV. *And be it enacted, that the first commissioner for the time her Majesty's woods and forests, land revenues, works and b together with such two other persons as her Majesty by warrant u royal sign manual may be pleased to appoint, shall be and con board for superintending the execution of this act, and shall "The General Board of Health," and shall have and execute powers and duties vested in or imposed on such board by this act, said first commissioner shall be the president of the said board ; Majesty may from time to time, at her pleasure, remove all or an persons so appointed by her, and appoint others in their stead ; powers and duties vested in the said board by this act may be and executed by any two members thereof; and during any va the said board the continuing members or member thereof may act vacancy had occurred : provided always, that the said general health shall be continued only for five years next after the day of th*

*this act, and thenceforth until the end of the then next session of parliament, and no longer (a).*

*Power to general board of health to appoint officers and servants, subject to approval of treasury, and to cause a seal to be made.*

V. *And be it enacted, that the said board may from time to time appoint a secretary and such clerks and servants as they, subject to the approval of the commissioners of her Majesty's treasury, may deem necessary for the purposes of this act; and every person so appointed shall be removable at the pleasure of the said board; and the said board shall cause to be made a seal for their use in the execution of this act, and documents or copies of documents purporting to proceed from them, and to be signed by any two or more of them, and to be sealed or stamped with such seal, shall be received as* primâ facie *evidence in all courts and places whatsoever.*

*Power to appoint superintending inspectors, subject to approval of treasury.*

VI. *And be it enacted, that the general board of health may from time to time appoint so many proper persons as they, subject to the approval of the commissioners of her Majesty's treasury, may deem necessary, to be superintending inspectors for the purposes of this act; and every person so appointed shall have all the powers, duties, and liabilities vested in or imposed upon any superintending inspector by this act, and shall assist in the superintendence and execution of this act, when, where, and in such manner as the said board shall direct, and shall be removable at their pleasure.*

*Power to treasury to grant salaries, &c., to general board of health, superintending inspectors, &c.*

VII. *And be it enacted, that there shall be paid to such one of the members of the general board of health, not being the president, as her Majesty shall direct, and to the said secretary, clerks, and servants, such salaries or wages, and to the said superintending inspectors such allowances, as shall from time to time be appointed by the commissioners of her Majesty's treasury, out of any monies which may from time to time be provided by parliament for that purpose: provided always, that the allowance to a superintending inspector shall not exceed the sum of three pounds three shillings for every day he shall be actually employed or travelling in the performance of the duties of his office; provided also, that the commissioners of her Majesty's treasury may allow to any superintending inspector such reasonable travelling and other expenses as may be incurred by him in the performance of the duties of his office under this act, in addition to his said allowance.*

Preliminary inquiry.

*Upon petition of a certain proportion of householders, &c., or when the deaths in any city, &c., appear upon the registrar general's returns to be above a certain proportion, superintending inspector to make local inquiry.*

VIII. *And be it enacted, that from time to time after the passing of this act, upon the petition of not less than one tenth of the inhabitants rated to the relief of the poor of any city, town, borough, parish, or place having a known or defined boundary, not being less than thirty in the whole, or where it shall appear or can be ascertained from the last return for the time being made up by the registrar general of births, marriages, and deaths, from the deaths registered in a period of not less than seven years, that the number of deaths annually in any city, town, borough, parish, or place during the period in respect whereof such return shall have been made have on an average exceeded the proportion of twenty-three to a thousand of the population of such city, town, borough, parish, or place, the general board of health may, if and when they shall think fit, direct a superintending inspector to visit such city, town, borough, parish, or place, and to make public inquiry, and to examine witnesses, as to the sewerage, drainage, and supply of water, the state of the burial grounds, the number and sanitary condition of the inhabitants, and as to any local acts of parliament in force within such city, town, borough, parish, or place, for paving, lighting, cleansing, watching, regulating, supplying with water, or improving the same, or having relation to the purposes of this act, also as to the natural*

(a) This and three following sections repealed by 17 & 18 Vict. c. 95, by which the powers hereby given were transferred to such board as therein constituted. Sections four to eleven inclusive are all either repealed or practically superseded by the Local Government Act, 1858.

11 & 12 Vict. c. 63.

*drainage areas, and the existing municipal, parochial, or other boundaries, and the boundaries which may be most advantageously ac for the purposes of this act, and as to any other matters in respect w the said board may desire to be informed, for the purpose of enablin to judge of the propriety of reporting to her Majesty, or making visional order, as hereinafter mentioned.*

*Inspector to give notice of inquiry, and report to general board the result of the same.*

IX. *And be it enacted, that before proceeding upon such inquiry th inspector shall give fourteen days' notice of his intention to make the and of a time and place at which he will be prepared to hear all p desirous of being heard before him upon the subject of such inquiry, vertisement in some one or more of the public newspapers usually circ in the parts to which the inquiry will relate, and by causing such to be affixed on the doors of the principal churches, chapels, public ings, and places where public notices are usually affixed within such and in such other manner as may appear to the said inspector necessary; and so soon as can be after the completion of such inqu shall report in writing to the general board of health, in such man they may direct, upon the several matters with respect to which he ha directed to inquire as aforesaid, and upon any other matters with to which he may deem it expedient to report for the purposes of thi*

*Upon such report general board may, if they think fit, cause inspector to make further inquiries respecting boundaries, and present a further report, which shall be published, &c.*

*and if upon such report it appear to the said general board th boundaries which may be most advantageously adopted for the purp this act are not the same as those of the city, town, borough, par place with respect to which inquiry has been made, they shall cau same or some other superintending inspector to visit the parts the boundaries proposed to be adopted for the purposes of this act after having given such notice as is hereinbefore prescribed, to he persons desirous of being heard before him upon the subject of th report, and to make such further inquiry and report to the said boa they may direct; and upon the presentation of such report or f report the said board shall cause copies thereof respectively to be pul in the parts to which such report or further report respectively rel such manner as they may direct, and shall also cause other copies respectively to be deposited with the town clerk of any corporate b affected thereby, and with the clerk to the commissioners or trustees under any local act of parliament in force within such parts for lig paving, cleansing, watching, regulating, supplying with water, proving such parts or any of them, or in anywise relating to the pu of this act, and with the clerk to the justices acting for any petty ses division in which such parts may be, and with the clerk of the boa guardians of the union or parish the whole or part of which affected thereby; and if such report or further report relate to pa being within any corporate borough the said board shall cause other of the same to be deposited with the churchwardens or overseers of th of any parish in which such parts or any of them may be; an copies so published or deposited shall be accompanied by a notice that within a certain time, not being less than one month from the such publication and deposit, written statements may be forwarded said board with respect to any matter contained in or omitted fr said report or further report, or any amendment proposed to be therein; and all such statements shall be deposited with such town clerk to justices, clerk to the board of guardians, and with such c wardens or overseers respectively, in like manner as the said copie shall, together with such copies, be open to public inspection from th of eleven in the forenoon till the hour of three in the afternoon eve during the time specified in the last-mentioned notice, Sundays, Chr days, Good Fridays, and days appointed for general fasts or thanks only excepted; and any town clerk, clerk to justices, clerk to the boa guardians, churchwardens, or overseers who shall refuse to recei*

document or copy of any document directed to be deposited with him or them as aforesaid, or to allow such inspection, shall be liable for every such offence to a penalty not exceeding five pounds; and after the expiration of such last-mentioned notice the said board may, if they think fit, direct such further inquiry and report as to them may seem necessary and proper.

Application of the act.

X. And be it enacted, that if after such inquiry or further inquiry as aforesaid it appear to the said general board of health to be expedient that this act or any part thereof should be applied to the city, town, borough, parish, or place with respect to which inquiry has been made, upon the petition of such inhabitants as aforesaid, and within the same boundaries as those of such city, town, borough, parish, or place, and within which there is no local act of parliament in force for paving, lighting, (otherwise than for the profit of proprietors or shareholders,) cleansing, watching, regulating, supplying with water, or improving such city, town, borough, parish, or place, or any part thereof, or in anywise relating to the purposes of this act, they shall report to her Majesty accordingly; and at any time after presentation of such report it shall be lawful for her Majesty, by and with the advice of her privy council, to order that this act or any part thereof shall be applied to and be put in full force and operation within such city, town, borough, parish, or place; and if after such inquiry or further inquiry as aforesaid it appear to the said general board to be expedient that this act or any part thereof should be put in force within boundaries not being the same as those of the city, town, borough, parish, or place from which the said petition proceeded, or within boundaries where no petition has been presented from such inhabitants as aforesaid, or within any city, town, borough, parish, or place in which any such local act of parliament as aforesaid is in force, they shall make a provisional order under their hands and seal of office accordingly, with such provisions, regulations, conditions and restrictions with respect to the application and execution of this act or any part thereof, and with respect to any such local act (a), and the repeal, alteration, extension, or future execution of the same, and in all respects whatsoever, as they may think necessary under all the circumstances of the case; and such provisional order shall be published in the parts to which the same relates in such manner as the said general board may direct, and shall be deposited with the town clerk of any corporate borough affected thereby, and with the clerk to the commissioners or trustees acting under any such local act, also with the clerk to the justices acting for any petty sessional division in which such parts may be, and with the clerk of the board of guardians of the union or parish the whole or part of which may be affected thereby; and if such provisional order relate to parts not being within any corporate borough, the said board shall cause other copies of the same to be deposited with the churchwardens or overseers of the poor of any parish in which such parts or any of them may be; and in case it shall be enacted by any act of parliament hereafter to be passed that the whole or part of any provisional order or orders of the general board of health shall be confirmed and be absolute, the whole or part of such provisional order or orders which shall be so confirmed shall be as binding and of the like force and effect as if the same had been expressly enacted by parliament, and every such act shall be deemed a public general act; but no such provisional order shall have any force or effect, nor shall this act or any part thereof be applied in either of the cases last aforesaid, except for the purposes of such inquiry, further inquiry, report, or provisional order, without the previous authority of parliament; and no such provisional order, or any altered or amended order, shall be made with respect to any local act of parliament under which any water-

*Cases in which act shall be put in force by order of her Majesty in council.*

*Cases in which act shall be put in force by provisional order of general board, and sanctioned by parliament.*

*Exception with respect to certain*

(a) *I.e.*, any local act affecting the public health. See *Clayton* v. *Fenwick*, 6 E. & B. 114.

works company is empowered to construct waterworks or supply water for their own profit, without the consent of the waterworks company empowered by such local act first had and obtained: provided always, that, except for the purposes of main sewerage, no corporate borough or any part thereof shall be included in any district not exclusively consisting of the whole or part of one such borough without the previous consent of the council under the common seal of the borough; but nothing herein contained shall be construed to require such consent to the constitution of a district exclusively consisting of the whole or part of one such borough for all or any of the purposes of this act, nor to hinder or prevent the application of all or any of the provisions of this act to parts exclusively consisting of the whole or part of one such borough, although the same parts or any of them may have been already included within a district for the purposes of main sewerage: provided also, that, except for the purposes of main sewerage, no parts beyond the boundaries of a corporate borough shall be included in any district comprising the whole or part of any such borough, except upon the petition of a majority of the owners of property and ratepayers who would be qualified to vote in the election of members of a local board of health for the parts proposed to be so included; but nothing herein contained shall be construed to require such petition in order to the constitution of a district exclusively consisting of parts not within the boundaries of any such borough, nor to hinder or prevent the application of all or any of the provisions of this act to a district exclusively consisting of such last-mentioned parts, although the same parts or any of them may have been already included within a district for the purposes of main sewerage.

*local acts for supplying water.*

*Consent of town council, &c., in certain cases.*

*Costs of preliminary inquiry, &c., with consent of treasury, to become a charge upon the general district rates.*

XI. And be it enacted, that from and after the making of any such order in council, or the passing of any act of parliament confirming any provisional order of the general board of health, the costs, charges, and expenses specially incurred by or under the direction of the said general board, or of any superintending inspector, in relation to any inquiry or further inquiry as aforesaid, shall, to such extent and amount as the commissioners of her Majesty's treasury by order under their hands may think proper to direct, become a charge upon the general district rates levied in such district under the authority of this act, and be repaid to the said commissioners by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such last-mentioned order, upon so much of the principal sum due in respect of the said costs, charges, and expenses as shall from time to time remain unpaid.

Local boards of health.

*Town council to be the local board in districts consisting of one borough, &c.*

*Selection, &c., of local boards by town council.*

XII. And be it enacted, that in every district exclusively consisting of the whole or part of one corporate borough, the mayor, aldermen, and burgesses of such borough shall be by the council of the borough, within and for such district, the local board of health under this act, and such council shall exercise and execute the powers, authorities, and duties of such local board, according to the laws for the time being in force with respect to municipal corporations in England and Wales; and in every district exclusively consisting of two or more of such boroughs, or of one or more of such boroughs and also of part of any other such borough or boroughs, or exclusively consisting of part of two or more of such borough or boroughs, the mayors for the time being of the boroughs whereof the whole or part is within such last-mentioned district, and such number of other persons as shall be fixed by such provisional order as aforesaid to be selected by each of such councils respectively out of their own number, or from persons qualified to be councillors of the borough in respect of which the selection is to be made, and shall be named and selected by such councils accordingly, shall, within and for such district, be the local board of health under this act; and in every district comprising the whole or part of any such borough or boroughs and also parts not within the boundaries of any such borough, the mayor or mayors for the time being of the borough or boroughs whereof

*Selection of part of local board*

*the whole or part is within such last-mentioned district, and such number of other persons as shall be fixed by such provisional order to be selected by such council or each of such councils respectively out of their own number, or from the persons qualified to be councillors of the borough in respect whereof the selection is to be made, and shall be named and selected by such council or councils accordingly, shall, together with such number of persons as shall be elected as hereinafter mentioned in respect of such non-corporate parts, be, within and for such district, the local board of health under this act; and the first selection by any such council in pursuance of this act shall be made on a day to be appointed by parliament; and each person selected by the council out of their own number shall be a member of the local board with which he is selected to act so long as he continues without re-election to be member of the council from whom he was selected, and no longer; and each person selected by the council otherwise than out of their own number shall be a member of the local board with which he is selected to act for one year from the date of his selection, and no longer; and in case of any vacancy in the number selected some other person or persons (as the case may require) shall be selected by the council by whom the person or persons causing the vacancy was or were selected, within one month after the occurrence of the vacancy; and the meeting of any council at which any selection as aforesaid is made in pursuance of this act shall to all intents and purposes be deemed to be a meeting held in pursuance of an act passed in the sixth year of the reign of king William the Fourth, intituled, "An Act for the Regulation of Municipal Corporations in England and Wales."*

11 & 12 Vict. c. 63.

*by town councils, and part by owners and ratepayers.*

5 & 6 W. 4, c. 76.

Election of members of local board by owners and ratepayers.

XIII. And be it enacted, that in every district comprising the whole or part of any corporate borough or boroughs as aforesaid, and also any part or parts not within the boundaries of any corporate borough or boroughs, such number of persons, qualified as hereinafter prescribed, as shall be fixed by such provisional order as aforesaid to be elected for such part or parts or for each of such parts respectively, shall from time to time be elected in such manner and by such owners of property and ratepayers as hereinafter mentioned, to be, together with the persons selected as aforesaid in respect of the corporate parts of such district, and shall be, within and for such district, the local board of health under this act; and in every district not comprising the whole or part of any corporate borough or boroughs, but being a district to which this act may be applied by order of her Majesty in council, such number of persons, qualified as hereinafter prescribed in this behalf, as shall be fixed by such order in council, shall be elected, in such manner and by such owners of property and ratepayers as hereinafter mentioned, to be, and shall be, within and for such district, the local board of health under this act; and in every district not comprising the whole or part of any corporate borough or boroughs, and being a district to which this act cannot be applied without the authority of parliament, such number of persons, qualified as hereinafter prescribed, as shall be fixed by such provisional order as aforesaid, shall be elected, in such manner and by such owners of property and ratepayers as hereinafter mentioned, to be, and shall be, within and for such district, the local board of health under this act; and the first election for any district or part of a district shall take place on a day to be appointed by order of her Majesty in council or by parliament (as the case may require); and one-third of the number elected for the whole or any part or parts of a district respectively shall go out of office on such day in each year subsequently to that of the first election as shall be appointed by such order in council or provisional order as aforesaid (as the case may require); and the order in which the persons first elected shall go out of office shall be regulated by each local board (*a*): Provided always, that if the number of persons to be

(*a*) See note (*a*), p. 26.

11 & 12 Vict. c. 63.

elected be not divisable by three the proportion to go out of office in each year shall be regulated by such order in council or provisional order (as the case may require) so that as nearly as may be one-third shall go out of office in each year; and if the number of persons to be elected for any part of a district be less than three the persons elected shall go out of office on such day in each year, or at such other period, not being less than a year, as such order in council or provisional order (as the case may require) shall direct; but no person elected shall in any case continuously remain in office for more than three years; and on the days appointed for going out of office a number of persons shall be elected equal to the number of those so going out, and so many others as may be necessary to complete the full number of the local board of health in respect of which the election is to be made.

Regulations as to the number of persons to be selected or elected members of local boards.

XIV. And be it enacted, that the number of persons to be selected or elected for the whole or any part of a district shall from time to time be regulated by such order in council or provisional order as aforesaid (as the case may require), due regard being had to the size and circumstances of each district, as may appear to be just and proper; and that any member of the local board of health, after going out of office, resigning, or otherwise ceasing to be such member, may, if otherwise qualified, be again selected or elected (as the case may require); and in the event of any vacancy in the number of persons elected, by death, resignation, or otherwise, between the times appointed for election as aforesaid, or if at any time the said local board be without its full number of members, the remaining members shall continue and be as competent to act until the time appointed for election, or until the full number is selected or elected (as the case may require), as if no vacancy had occurred; and if any person be both selected and elected to be a member of the local board of health he shall, within three days after notice thereof from the clerk, choose, or in default of such choice the local board of which he is so selected and elected to be member shall determine, the title in respect of which he shall serve, and immediately upon such choice or determination the person so selected and elected shall be deemed to be member only in respect of the title so chosen or determined, and his office as member in respect of any other title shall thereupon become vacant.

In case of vacancies, remaining members may act.

Persons both selected and elected, &c., to serve in respect of one title only.

*Members elected for part of a sewerage district to constitute separate board for other purposes of the act.*

*XV. Provided always, and be it enacted, that if any corporate borough or part thereof be included only for the purposes of sewerage in any district comprising any part or parts not within the boundaries of any such borough and the last-mentioned part or parts, or any of them, be constituted a district or districts for any other purposes of this act, the persons elected for such sewerage district shall, within and for the separate district within which they shall have been so elected, be and constitute the local board of health in the same manner and as fully to all intents and purposes as if they had been expressly elected to constitute the same (a).*

*Qualification of elected members.*

*XVI. And be it enacted, that every person elected as aforesaid shall at the time of his election, and so long as he shall continue in office by virtue of such election, be resident within the district for which or for part of which he is elected, or within seven miles thereof, and be seised or possessed of real or personal estate, or both, to such value or amount as shall be fixed by such order in council or provisional order as aforesaid (as the case may require), within the limits next hereinafter provided, or be so resident, and rated to the relief of the poor of some parish, township, or place of which some part is within such district or part of a district, upon such annual value as shall be fixed by such order in council or provisional order (as the case may require), within the limits next hereinafter provided: Provided always, that it shall not be lawful to require that any person be seised*

(a) Sections 15 & 16 are practically superseded by the 21 & 22 Vict. c. 98. For the qualification of members, see section 24 of that act.

*possessed as aforesaid to a value or amount exceeding one thousand pounds or to require that any person be rated upon an annual value exceeding thirty pounds; provided also, that if two or more persons be jointly seised or possessed of real or personal estate, or both, of such value or amount as would, if equally divided between them, qualify each to be elected, or if two or more persons be jointly rated in respect of any property which if equally divided between them would qualify each to be so elected, each of the persons so jointly seised, possessed, or rated may be elected; but the same property shall not at the same time qualify both the owner and the occupier thereof.* 11 & 12 Vict. c. 63.

Declaration to be made by members of local boards before acting.

XVII. And be it enacted, that no person elected as aforesaid, or selected by any council otherwise than out of their number, shall act as member of the local board of health (except in administering the following declaration) until he shall have made and signed before two or more other members for the district for which he is elected a declaration in writing to the effect following (that is to say),

"I, *A. B.*, do solemnly declare, that I am seised or possessed of real or personal [*or* real and personal] estate to the value or amount of (*a*)
[*or* that I am rated to the relief of the poor of upon the annual value of (*b*) ].

"(Signed) *A. B.*

"Made before us, *C. D.* and *E. F.*, members of the local board of health for the district of this day of ."

False declaration a misdemeanor.

And such declaration shall be made and signed by the person making the same, and shall be filed and kept by the clerk; and any person who shall falsely or corruptly make and subscribe the said declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor.

Person neglecting to make declaration or to act for three months to cease to be a member.

XVIII. And be it enacted, that any person elected as aforesaid, or selected by any council otherwise than out of their own number, who neglects to make and subscribe the declaration required by this act for the space of three months next after his selection or election, and any person selected or elected under this act who during *three* (*c*) *successive months is absent from all meetings and committees of the local board of health of which he is elected or selected to be a member*, shall be deemed to have refused to act, and shall cease to be a member of such local board, and his office as such shall thereupon become vacant.

Disqualifications.

XIX. And be it enacted, that no bankrupt, insolvent, or other person not qualified as aforesaid shall be capable of being elected as aforesaid; and if any person, after being so elected or selected by any council otherwise than out of their own number, shall lose or discontinue to hold his qualification, or shall be declared bankrupt, or shall apply to take the benefit of any act for the relief or protection of insolvent debtors, or shall compound with his creditors, or if any member selected or elected under this act shall accept or hold any office or place of profit under the local board of health of which he is member, or shall in any manner be concerned in any bargain or contract entered into by such board, or participate in the profit thereof, or of any work done under the authority of this act in or for the district for which he is member (*d*), then and in every such case such person shall, except in the cases next hereinafter provided, cease to be such member, and his office as such shall therepon become vacant; and any person who, not being duly qualified to act as member of the said local board, or who has not made and subscribed the declaration required

(*a*) See 21 & 22 Vict. c. 98, s. 24. (*b*) *Ibid.*
(*c*) More than six months absent from the district, except from illness. *Ib.* s. 25.
(*d*) 21 & 22 Vict. c. 98, s. 25. See also notes, p. 26.

11 & 12 Vict. c. 63.

of him by this act, or who after being disqualified or disabled from acting by any provision of this act shall so act, shall for every such offence be liable to a penalty of fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt; and in such action it shall be sufficient for the plaintiff to prove in the first instance that the defendant at the time when the offence is alleged to have been committed acted as such member; and the burden of proving qualification, and the making and subscription of the declaration, or negativing disqualification, by reason of nonresidence, or not being seised or possessed of the requisite real or personal estate, or both, shall be upon the defendant: provided always, that no person being a proprietor, shareholder, or member of any company or concern established for the supply of water, or for the carrying on of any other works of a like public nature, shall be disabled from being, continuing, or acting as member of the said local board by reason of any contract entered into between such company or concern and such board (*a*); but no such person shall vote (*b*) as a member of the said local board upon any question in which such company or concern is interested: provided also, that all acts and proceedings of any person disqualified, disabled, or not duly qualified as aforesaid, or who has not made and subscribed the said declaration, shall, if done previously to the recovery of the last-mentioned penalty, be valid and effectual to all intents and purposes whatsoever.

*Election of local boards.*

Qualification of elector, and scale of voting.

XX. And be it enacted, that at every such election as aforesaid the ratepayers in respect of property in the district or part of a district for which the election is held, and the owners of such property, shall be entitled to vote according to the scale following; (that is to say,) if the property in respect of which the person is entitled to vote be rated upon a rateable value of less than fifty pounds he shall have one vote; if such rateable value amount to fifty pounds and be less than one hundred pounds he shall have two votes; if it amount to one hundred pounds and be less than one hundred and fifty pounds he shall have three votes; if it amount to one hundred and fifty pounds and be less than two hundred pounds he shall have four votes; if it amount to two hundred pounds and be less than two hundred and fifty pounds he shall have five votes, and if it amount to or exceed two hundred and fifty pounds he shall have six votes; and any person who is owner and also *bonâ fide* occupier of the same property shall be entitled to vote both in respect of such ownership and of such occupation; and the votes shall be given, taken, collected, and returned according to the directions hereinafter contained; and the majority of the votes actually collected and returned shall be binding on the district or part of a district for which the election is had; and whosoever shall not vote or shall not comply with such directions shall be omitted in the calculation of votes, and be deemed to have had no vote:

Definition of the words "owner" and "owners" as applied to this act.

provided always, that the word "owner" and "owners," when used in this act in relation to the right of voting at any election under this act, shall respectively be construed to mean any person or persons for the time being in the actual occupation of any kind of property rateable to the relief of the poor, and not let to him or them at a rackrent, or any person or persons receiving, either on his or their own account, or as mortgagee or mortgagees, or other incumbrancer or incumbrancers, in possession, the rackrent of any such property; and no person shall be deemed a ratepayer or be entitled to vote as such at any such election unless he shall have been rated to the relief of the poor in the district or part of a district for which he claims to vote for the space of one whole year immediately preceding the day of tendering his vote, and shall have also paid all rates made upon him for the relief of the poor in such district or part of a district for the period of one whole year, and shall have also paid all such

(*a*) See 21 & 22 Vict. c. 98, s. 25. See also notes, p. 26. (*b*) *Ibid.*

rates, and all rates due from him under this act, before that day, in such district or part of a district, except rates which shall have been made or become due within the six months immediately preceding: provided also, that in case of property belonging to a corporation aggregate, or to a joint stock or other company, or to any body of proprietors or undertakers, such corporation, company, body of proprietors or undertakers, respectively, shall be deemed to be one owner for the purpose of voting under this act, and shall vote by proxy appointed in writing under the common seal (in case of a corporation) or (in any other case) under the hands of three directors or other persons in the direction or management of the company or concern: and no member of such corporation, nor any proprietor or person interested in such company or concern, shall be entitled to vote individually as owner in respect of such property; and no owner whosoever shall be entitled to vote as such, unless, fourteen days at least previously to the day of tendering his vote, he shall have delivered to the clerk, or (in case of the first election) to such person within the district in which the qualification to vote is situate as shall be directed by such order in council or provisional order (as the case may require), a statement in writing of his name and address, and containing a description of the nature of his interest or estate in the property giving the qualification, and a statement of the amount of all rent-service (if any) which he may receive or pay in respect thereof, and of the persons from whom he may receive or to whom he may pay the same; and no such corporation aggregate, joint stock or other company, body of proprietors or undertakers, shall be entitled to vote unless such statement contain the name and address of the proxy appointed, and a true copy of the appointment of such proxy. 11 & 12 Vict. c. 63.

Elections, by whom to be conducted.

XXI. And be it enacted, that at every election by owners of property and ratepayers under this act the chairman of the local board of health, *or, in case of the first election, such persons as shall be appointed by order of her Majesty in council, or by provisional order of the general board of health (as the case may require,)* (*a*) shall have the powers and perform the duties vested in or imposed upon the said chairman by this act in relation to any such election, and shall perform all other duties which it may be requisite for him to perform in conducting and completing elections under this act; and in case the office of chairman shall be vacant at the time when any such power or duty must be executed or performed, or in case the chairman *or person appointed as last aforesaid* (*b*), from illness or other sufficient cause, shall be unable to exercise or discharge such powers or duties, or shall be absent, or shall refuse to act, some other person who shall be appointed (*in case of the first election*) *by such order in council or provisional order or* (*in any other case*) (*c*) by the local board of health, shall exercise or perform such of the said powers and duties as then remain to be exercised or performed; and the said local board, *or (in case of the first election) the person appointed by such order in council or provisional order* (*c*), shall, before or during the election, appoint a competent number of persons to assist and attend upon the chairman *or the person so appointed* (*d*) (as the case may require) in conducting and completing the same.

Production of parochial books, &c., for purposes of election.

XXII. And be it enacted, that the clerk of the board of guardians of any union, and the overseers or other officers of every parish, wholly or in part within the parts for which any such election shall be held, and having the custody of any books or papers relating to the election of guardians of the poor, or the poor rate books relating to any such parish, shall permit the same to be inspected and copies or extracts to be taken therefrom by the said chairman, or (in case of the first election) by *any person appointed by such order in council or provisional order* (*e*) as

(*a*) See 21 & 22 Vict. c. 98, ss. 13, 16, 19 and 24. (*b*) *Ibid.* (*c*) *Ibid.*
(*d*) *Ibid.* (*e*) *Ibid.*

1 & 12 Vict. c. 63.

aforesaid; and the said chairman may, if he shall see fit, cause to be made an alphabetical list of the persons entitled to vote at the election.

List of voters, &c., to be made if necessary.

Publication of notices previously to election.

XXIII. And be it enacted, that the said chairman (*a*) shall, before such election, prepare, sign, and publish a notice, which shall contain the particulars following; that is to say, the number and qualification of the persons to be elected, the persons by whom and the places where the nomination papers hereinafter mentioned are to be received, and the last day on which they are to be sent, the mode of voting in case of a contest and the days on which the voting papers will be delivered and collected and the time and place for the examination and casting up of the votes and he shall also cause such notice to be affixed on such places in the parts for which the election is to be held as are ordinarily made use of for affixing thereon notices of parochial business: provided always, that whenever the day appointed for the performance of any act in relation to any such election shall be on a Sunday, Christmas-day, or Good Friday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following.

Nomination and election of candidates.

XXIV. And be it enacted, that any person entitled to vote may nominate for the office of member of the local board of health himself (if qualified to be elected), or any other person or persons so qualified (not exceeding the number of persons to be elected); and every such nomination shall be in writing, and shall state the names, residence, calling, or quality of the persons nominated, and shall be signed by the party nominating, and be sent to the said chairman; and if the number of persons nominated shall be the same or less than the number of persons to be elected, such persons (if duly qualified) shall be deemed to be elected, and shall be certified accordingly by the said chairman under his hand; but if the number so nominated exceed the number to be elected, the said chairman shall cause voting papers, in the form contained in the schedule (A.) to this act annexed, to be prepared and filled up, and shall insert therein the names of all the persons nominated, in the order in which the nomination papers were received, but it shall not be necessary to insert more than once the name of any person nominated; and the said chairman shall, three days before the day of election, cause one of such voting papers to be delivered by the persons appointed for that purpose (*b*), to the address in the part for which the election is to be held of each owner and proxy (*c*), as at the residence of each ratepayer entitled to vote therein: provided always, that if any person put in nomination shall tender to the officer conducting the election his refusal in writing to serve as a member of the local board of health, and if in consequence of such refusal the number of persons nominated shall be the same as or less than the number of persons to be elected, all or so many of the remaining candidates as shall be duly qualified shall be deemed to be elected, and shall be certified as such by the chairman under his hand.

Mode of voting.

XXV. And be it enacted, that each voter shall write his initials in the voting paper delivered to him against the name or names of the person or persons (not exceeding the number of persons to be elected) for whom he intends to vote, and shall sign such voting paper; and when any person votes as a proxy he shall in like manner write his own initials, and sign his own name, and state also in writing the name of the corporation, company, or body of proprietors or undertakers, for which he is proxy: provided always, that if any voter cannot write he shall affix his mark at the foot of the voting paper in the presence of a witness, who shall attest and write the name of the voter against the same, as well as the initials

(*a*) Or summoning officer.
(*b*) See 21 & 22 Vict. c. 98, s. 24.
(*c*) But the fourteen days' notice required by s. 20 must be given by such owner.

of such voter against the name of every candidate for whom the voter intends to vote. 11 & 12 Vict. c. 63.

XXVI. And be it enacted, that the said chairman shall cause the voting papers to be collected on the day of election by the persons appointed or employed for the purpose (*a*) in such manner as he shall direct; but no voting paper shall be received or admitted unless the same have been delivered at the address or residence (*b*) as aforesaid of the voter within the parts for which the election is had, nor unless the same be collected by the persons appointed or employed for that purpose, except as next hereinafter provided: provided always, that if any person qualified to vote shall not have received a voting paper as aforesaid, he shall, on application before that day to the said chairman, be entitled to receive a voting paper from him, and to fill up the same in his presence, and then and there to deliver the same to him: provided also, that in case any voting paper duly delivered shall not have been collected, through the default of the said chairman, or the persons appointed or employed to receive the same, the voter in person may deliver the same to the said chairman before twelve o'clock at noon on the day, or the first day (as the case may be), appointed for the examination and casting up of the votes. Regulations as to collection of voting papers.

XXVII. And be it enacted, that the chairman shall on the day immediately following the day of the election, and on as many days immediately succeeding as may be necessary, attend at the office of the local board of health, and ascertain the validity of the votes by an examination of the rate books and such other books and documents as he may think necessary, and by examining such persons as he may see fit (*c*); and he shall cast up such of the votes as he shall find to be valid, and to have been duly given, collected, or received, and ascertain the number of such votes for each candidate; and the candidates to the number to be elected who, being duly qualified, shall have obtained the greatest number of votes, shall be deemed to be elected, and shall be certified as such by the said chairman (*d*) under his hand; and to each person so elected the said chairman shall send or deliver notice of such election; and the said chairman shall also cause to be made a list containing the names of the candidates, together with (in case of a contest) the number of votes given for each, and the names of the persons elected, and shall sign and certify the same, and shall deliver such list, together with the nomination and voting paper which he shall have received, to the local board of health at their first or next meeting (as the case may be), who shall cause the same to be deposited in their office, and the same shall, during office hours thereat, be kept open to public inspection, together with all other documents relating to the election, for six months after the election shall have taken place, without fee or reward; and the said chairman shall cause such list to be printed, and copies thereof to be affixed at the usual places for affixing notices of parochial business within the parts for which the election shall have been made. Regulations as to examination of votes and elections of local boards. Notices to be sent to persons elected. List of persons elected, &c., to be transmitted to local boards, who shall deposit the same, which shall be open to inspection.

XXVIII. And be it enacted, that if the said chairman or other person charged with taking, collecting, or returning the votes at any such election as aforesaid shall neglect or refuse to comply with any of the provisions of this act in that behalf, he shall be liable for every such offence to a penalty not exceeding fifty pounds (*e*); and any person employed for the purposes Penalty upon persons conducting elections neglecting to comply with provisions of this act.

(*a*) See 21 & 22 Vict. c. 98, s. 24.

(*b*) Observe the distinction between the *address* of owners, &c., and the *residence* of ratepayers is maintained throughout.

(*c*) The chairman is to decide the question as to the majority of votes. He is a judicial officer, *R.* v. *Cross*, 16 J. P. 214; *R.* v. *St. Pancras Inspector*, 7 E. & B. 954.

(*d*) *Ibid.*

(*e*) *King* v. *Burrell*, 12 A. & E. 460, 9 L. J., Q. B. 357; *Tozer* v. *Child*, 6 E. & B. 289.

11 & 12 Vict. c. 63.

of any such election, by or under the said chairman or other person charged as aforesaid, who shall be guilty of any such neglect or refusal, shall be liable for every such offence to a penalty not exceeding five pounds (*a*).

Defects in election, &c., not to invalidate proceedings.

XXIX. And be it enacted, that all proceedings of the local board of health, and of any person acting as member or under the authority thereof, shall, notwithstanding any defect in the selection or election of such board or any member thereof, be as valid and effectual as if no such defect had ever existed.

Expenses of election to be defrayed out of general district rates.

XXX. And be it enacted, that the necessary expenses attendant upon any such election as aforesaid, and such reasonable remuneration to returning officers and other persons for services performed or expenses incurred by them in relation thereto as shall from time to time be allowed by the local board of health (*b*) in that behalf, shall be paid out of the general district rates to be levied under this act.

Local board of health in Oxford and Cambridge to consist of Oxford and Cambridge improvement commissioners, 52 G. 3, c. 72; 54 G. 3, c. 104.

XXXI. Provided always, and be it enacted, that nothing hereinbefore contained with respect to the appointment, selection, or election of any local board of health, or member thereof, shall apply to the city of Oxford, or the parts within the jurisdiction of the commissioners for amending certain mileways leading to Oxford, and making improvements in the university and city of Oxford, the suburbs thereof, and the adjoining parish of Saint Clement (which commissioners are hereinafter called the Oxford commissioners), or to the borough of Cambridge, or the parts within the jurisdiction of the commissioners acting under an act of the thirty-fourth year of the reign of King George the Third, for amending and enlarging the powers of a former act of the same reign, for the better paving, cleansing, and lighting the town of Cambridge, for removing and preventing obstructions and annoyances, and for widening the streets, lanes, and other passages within that town (which commissioners are hereinafter called the Cambridge commissioners); and if the city of Oxford, or the parts within the first-mentioned jurisdiction, become a district under this act, the same shall be called the Oxford district, and the said Oxford commissioners for the time being shall, within and for such district, be the local board of health under this act; and if the borough of Cambridge, or the parts comprised within the jurisdiction secondly above-mentioned, become a district under this act, the same shall be called the Cambridge district, and the said Cambridge commissioners for the time being shall, within and for such district, be the local board of health under this act (*c*).

*With respect to the execution of the act by commissioners under local acts in other cases.*

XXXII. *And be it declared and enacted, that whenever by any such provisional order as aforesaid the commissioners or trustees acting under any local act of parliament are constituted the local board of health under this act, such commissioners or trustees shall, within and for the district to which such provisional order applies, exercise and execute the powers, authorities, and duties vested in or imposed on the local board of health by this act, and so much of this act as relates to the appointment, election, or selection of local boards of health shall not apply to such district* (*d*).

Local board of health, in case of a district afterwards becoming a corporate borough.

XXXIII. And be it enacted, that if, after the application of this act to any district, the parts constituting the district shall afterwards become or be entirely comprised within the limits of a corporate borough, the mayor, aldermen, and burgesses of such borough shall *from and after such day as shall have been specified in the charter of corporation* (*e*) *in this behalf* be, *by the council of the borough*, the local board of health within and for such district: and *in case any day shall have been so specified, but not otherwise*, the powers, authorities, duties, property, and liabilities of any

(*a*) See 21 & 22 Vict. c. 98, s. 13.
(*b*) The court will not review the judgment of the board as to what is reasonable. *Ex parte Metcalf*, 6 E. & B. 287.
(*c*) See 21 & 22 Vict. c. 98, s. 82.
(*d*) This section is practically superseded See *ib.* s. 12.
(*e*) See 21 & 22 Vict. c. 98, s. 24.

other persons as such local board shall *from and after that day* absolutely cease and determine, and be vested in such mayor, aldermen, and burgesses, as fully to all intents and purposes as if they had always been the local board of health from the time when the district was originally constituted. 11 & 12 Vict. c. 63.

*Meetings, &c., of local boards.*

Meetings of local boards of noncorporate districts, and regulation of business, &c.

XXXIV. And be it enacted, that the local board of health of every noncorporate district shall hold an annual meeting, and other meetings for the transaction of business under this act once at least in each month, and at such other times as may be necessary for properly executing its powers and duties under this act, and shall from time to time make bylaws with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business by such board under this act: provided always, that no business shall be transacted at any such meeting unless at least one-third of the full number of members be present thereat, except in either of the districts to be called the Oxford or Cambridge districts, in which cases business may be transacted if at least seven members be present; and all questions shall be decided by a majority of votes; and the names of the members present, as well as of those voting upon each question, shall be recorded; and the said local board shall at their first meeting under this act, and afterwards from time to time at their annual meeting, appoint one of their number to be chairman for one year at all meetings at which he is present; and in case the chairman so appointed be absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat; and in case the chairman appointed as first aforesaid die, resign, or become incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer; and the chairman at any meeting shall have a second or casting vote in case of an equality of votes; but nothing herein contained with respect to the appointment of chairman shall apply to any district to be called the Oxford or Cambridge district, and in such districts the Oxford or Cambridge commissioners respectively shall appoint a chairman as heretofore.

Local boards to provide offices for transacting business, and cause a seal to be made.

XXXV. And be it enacted, that the local board of health shall from time to time provide and maintain such offices as may be necessary for transacting their business and that of their officers and servants under this act, and (in the case of a noncorporate district) shall cause to be made a seal for the use of such board in the execution of this act; and documents or copies of documents purporting to proceed from the said local board, and to be signed by any five or more members thereof, and to be sealed or stamped with such seal, or (in the case of a corporate district) to be sealed with the common seal, shall be received as *primâ facie* evidence in all courts and places whatsoever.

Committees may be appointed.

XXXVI. And be it enacted, that the local board of health may from time to time appoint out of their own number so many persons as they may think fit, for any purposes which in the opinion of the said local board would be better regulated and managed by means of a committee: provided always, that the acts of every such committee shall be submitted to the said local board for their approval.

*Local officers.*

Power to local boards to appoint surveyor, inspector of nuisances,

XXXVII. And be it enacted, that the local board of health shall from time to time appoint fit and proper persons to be surveyor, inspector of nuisances, clerk, and treasurer for the purposes of this act (*a*), and shall appoint or employ such collectors and other officers and servants as may be necessary and proper for the efficient execution of this act, and shall make bylaws for regulating the duties and conduct of the several officers and servants so appointed or employed; and the said local board may pay, out

(*a*) See note, p. 113.

11 & 12 Vict. c. 63.

of the general district rates to be levied under this act, to such officers and servants, such reasonable salaries, wages, or allowances as the said local board may think proper; and every such officer and servant shall be removable by the said local board at their pleasure, *subject nevertheless, in the case of the removal of the surveyor, to the approval of the general board of health* (a): provided always, that the same person may be both surveyor and inspector of nuisances; but neither the person holding the office of treasurer, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of clerk; and neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of treasurer; and whosoever offends in any of the cases enumerated in this proviso shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action of debt.

clerk, treasurer, &c.

Same person may be surveyor and inspector of nuisances, but not clerk and treasurer.

Penalty upon officers, &c., interested in contracts or taking fees improperly.

XXXVIII. And be it enacted, that no officer or servant appointed or employed by or under the local board of health shall in anywise be concerned or interested in any bargain or contract made with such board for the purposes of this act; and if any such officer or servant be so concerned or interested, or shall, under colour of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this act, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt.

Officers, &c., intrusted with money to give security, and to account.

XXXIX. And be it enacted, that before any such officer or servant enters upon any office or employment under this act by reason whereof he will or may be intrusted with the custody or control of money, the local board of health by whom he is appointed shall require and take from him sufficient security for the faithful execution of such office or employment, and for duly accounting for all monies which may be intrusted to him by reason thereof; and every such officer or servant employed in the collection of rates under the authority of this act shall, within seven days after he shall have received any monies on account of such rates, pay over the same to the treasurer, and shall, as and when the said local board may direct, deliver a list, signed by him, containing the names of all persons who have neglected or refused to pay any such rate, and the sums respectively due from them; and every officer and servant appointed or employed by or acting under the said local board shall respectively, when and in such manner as shall be required by such board, make out and deliver to them a true and perfect account in writing of all monies received by him for the purposes of this act, and stating how, and to whom, and for what purpose such monies have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the treasurer all monies owing by him upon the balance of accounts; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such monies as aforesaid, or if for the space of five days after being thereunto required he fail to deliver up to the said local board all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this act, or belonging to such board, then and in every such case a justice shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two justices at a time and place to be specified in the summons; and upon the appearance of the party charged, or upon proof that the summons was personally served

Summary proceedings to be taken in case of failing to account, &c.

(a) See 21 & 22 Vict. c. 98, s. 8.

upon him, or left at his last known place of abode or business, and if it appear to the last-mentioned justices that he has failed to render any such accounts, or to produce and deliver up any such vouchers or receipts, or any such papers, writings, property, effects, matters, or things as aforesaid, and that he still fails or refuses so to do, they may, by warrant under their hands and seals, commit the offender to gaol, there to remain, without bail, until (*a*) he shall have rendered such accounts, and produced and delivered up all such vouchers, receipts, books, papers, writings, property, effects, matters, and things in respect of which the charge was made; and if it appear that the party charged has failed to pay over any such monies as aforesaid, and that he still fails or refuses so to do, the last-mentioned justices may, by a like warrant, cause the same to be levied by distress and sale of his goods and chattels, and in default of any sufficient distress commit him to gaol, there to remain, without bail, for a period of three months, unless such monies be sooner paid: provided always, that if the complainant, by deposition on oath, show to the satisfaction of any justice that there is probable cause for believing that the party charged intends to abscond, such justice may, without previous summons, by warrant under his hand and seal, cause him to be forthwith apprehended (*b*); and in such case the said party shall, within twenty-four hours after apprehension, be brought before the same or some other justice (*c*), who may order that he be discharged from custody, if such justice think that there is no sufficient ground for detention, or that he be further detained until he be brought before two justices at a time and place to be named in the order, unless bail to the satisfaction of the justice be given for the appearance of the party before such two justices: provided also, that no such proceeding shall be construed to relieve or discharge any surety of the offender from any liability whatsoever. 11 & 12 Vict. c. 63.

Power to appoint an officer of health.

XL. And be it enacted, that the local board of health may from time to time, if they shall think fit, appoint a fit and proper person, being a legally qualified medical practitioner or a member of the medical profession, to be and be called the officer of health (*d*), who shall be removable by the said local board, and shall perform such duties as the *said general board* shall direct; and the same person may be officer of health for two or more districts; and the local board or boards of health of the district or districts respectively for which any such officer is appointed may pay to him, out of the general district rates to be levied under this act, such remuneration by way of annual salary or otherwise as the said local board or boards may by order in writing (*e*) determine and appoint, and (in case of a joint appointment for two or more districts) in such proportions as the *said general board* may by order in writing determine and appoint: *provided always, that the appointment and removal of the officer of health shall be subject to the approval of the said general board.*

*District map, &c.*

Map exhibiting system of sewerage.

XLI. And be it enacted, that the said local board of health may, if they shall think fit, cause to be prepared, or to procure, a map exhibiting a system of sewerage for effectually draining their district for the purposes of this act, *upon a scale to be prescribed by the general board of health* (*f*); and every such map shall be kept at the office of the said local board, and shall at all reasonable times be open to the inspection of the ratepayers of the district to which it applies.

Expense of surveys, &c.

XLII. And be it enacted, that the expense of surveys, maps, or plans made, prepared, or procured by the local board of health for the purposes of this act shall be defrayed out of the general district rates to be levied under this act.

(*a*) See note, p. 114.
(*b*) See 11 & 12 Vict. c. 43, ss. 2 and 3. (*c*) *Ibid.*
(*d*) See "Officer of Health," p. 174.
(*e*) This differs from the appointment of other officers, which need not be in writing.
(*f*) This condition is repealed by 21 & 22 Vict. c. 98, s. 8.

11 & 12 Vict. c. 63.

*Sewers.*

Sewers, &c., vested in local board.

XLIII. And be it enacted, that all sewers, whether existing at the time when this act is applied or made at any time thereafter, (except sewers made by any person or persons for his or their own profit or for the profit of proprietors or shareholders, and except sewers made and used for the purpose of draining, preserving, or improving land under any local or private act of parliament, or for the purpose of irrigating land, and sewers under the authority of any commissioners of sewers appointed by the crown,) together with all buildings, works, materials, and things belonging or appertaining thereto, shall vest in, belong to, and be entirely under the management and control of the local board of health.

Power to purchase, &c., certain sewers.

XLIV. And be it enacted, that the local board of health may, if they shall think fit, purchase the rights, privileges, powers, and authorities vested in any person for making sewers, or contract for the use of any sewers within their district, or purchase any such sewers, with or without the buildings, works, materials, and things belonging or appertaining thereto; and any person to whom any such rights, privileges, powers, authorities, sewers, buildings, works, materials, or things belong may sell and dispose of the same to or otherwise contract with the said local board; and in case of any such sale the purchase money shall be settled and applied to the same uses and trusts to which the property purchased may have been subject at the time of such sale, and the property purchased shall vest in and belong to the local board of health purchasing the same, anything to the contrary notwithstanding: provided always, that, notwithstanding any such purchase, any person who previously thereto may have acquired perpetual right to use any sewer so purchased shall be entitled to use the same, or any other sewer substituted in lieu thereof, in as full and ample a manner as he would or might have done if such purchase had not been made.

Making alteration, and discontinuance of sewers vested in local board.

XLV. And be it enacted, that the local board of health shall from time to time repair the sewers vested in them by this act, and shall cause to be made such sewers as may be necessary for effectually draining their district for the purposes of this act; and the said local board may carry any such sewers through, across, or under any turnpike road, or any street or place laid out as or intended for a street, or under any cellar or vault which may be under the pavement or carriageway of any street, and, after reasonable notice in writing in that behalf, (if upon the report of the surveyor it should appear to be necessary,) into, through, or under any lands whatsoever (*a*); and the said local board may from time to time enlarge, lessen, alter, arch over, or otherwise improve all or any of the sewers vested in them by this act, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary: provided always, that the discontinuance, closing up, or destruction of any sewer shall be so done as not to create a nuisance; and if by reason thereof any person is deprived of the lawful use of any sewer the said local board shall provide some other sewer as effectual for his use as the one of which he is so deprived.

As to cleansing and emptying sewers, &c., by local board.

XLVI. And be it enacted, that the local board of health shall cause the sewers vested in them by this act to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same they may construct and place, either above or under ground, such reservoirs, sluices, engines, and other works as may be necessary, and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit (*b*) and necessary, or to cause the sewage and refuse therefrom to be collected for sale for any purpose whatsoever, but so as not to create a nuisance.

Penalty for making unauthorised

XLVII. And be it enacted, that it shall not be lawful to cause any sewer or drain to communicate with or to be emptied into any sewer of the

(*a*) See note, p. 31. (*b*) See note, p 34.

local board of health, nor to cause any building to be newly erected over any such last-mentioned sewer, nor to cause any vault, arch, or cellar to be newly built or constructed under the carriageway of any street, without the written consent of the said local board first had and obtained; and whosoever offends against this enactment shall forfeit to the said local board the sum of five pounds, and a further penalty of forty shillings for every day during which the offence is continued after notice in writing from them in this behalf; and if any sewer, drain, building, vault, arch, or cellar be made, erected, or constructed contrary to this enactment, the said local board may cause the same to be altered, pulled down, or otherwise dealt with as they may think fit, and the expenses incurred by them in so doing shall be repaid to them by the offender, and be recoverable from him in the summary manner hereinafter provided.

sewers, and building over sewers and under streets.

XLVIII. And be it enacted, that any owner or occupier of premises adjoining or near to but beyond the limits of any district may cause any sewer or drain of or from such premises to communicate with any sewer of the local board of health, upon such terms and conditions as shall be agreed upon between such owner and occupier and such local board(*a*), or, in case of dispute, as shall be settled by arbitration in the manner provided by this act.

Use of sewers by persons beyond district.

*Drains, Privies, &c.*

XLIX. And be it enacted, that it shall not be lawful newly to erect any house, and to rebuild any house which may have been pulled down to or below the floor commonly called the ground floor, or to occupy any house so newly erected or rebuilt, unless and until a covered drain or drains be constructed, of such size and materials, and at such level, and with such fall as upon the report of the surveyor shall appear to be necessary and sufficient for the proper and effectual drainage of the same and its appurtenances; and if the sea, or a sewer of the local board of health, or a sewer which they are entitled to use, be within one hundred feet of any part of the site of the house to be built or rebuilt, the drain or drains so to be constructed shall lead from and communicate with such one of those means of drainage as the said local board shall direct, or if no such means of drainage be within that distance, then the last-mentioned drain or drains shall communicate with and be emptied into such covered cesspool or other place, not being under any house (*b*), and not being within such distance from any house, as the said local board shall direct; and whosoever erects or rebuilds any house or constructs any drain contrary to this enactment shall be liable for every such offence to a penalty not exceeding fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt; and if at any time, upon the report of the surveyor, it appear to the said local board that any house, whether built before or after the time when this act is applied to the district in which it is situate, is without any drain, or without such a drain or drains communicating with the sea or a sewer as is or are sufficient for the proper and effectual drainage of the same and its appurtenances, and if the sea, or a sewer of the said local board, or a sewer which they are entitled to use, be within one hundred feet of any part of such house, they shall cause notice in writing to be given to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified therein, to construct and lay down in connexion with such house and one of those means of drainage, one or more covered drain or drains, of such materials and size, at such level, and with such fall as upon the last-mentioned report shall appear to be necessary(*c*); and if such notice be not complied with the said local board may, if they shall think fit, do the works mentioned or referred to therein, and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or, by order

No new house to be built without drains, &c.

Local board may, upon report of surveyor that any house is without a drain, cause one to be constructed, &c.

(*a*) See 21 & 22 Vict. c. 98, ss. 28—31. (*b*) See *ibid.*, s. 34.
(*c*) See note, p. 40.

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of the said local board, shall be declared to be private improvement expenses, and be recoverable as such in manner hereinafter provided.

*Execution of minor works by overseers, &c.*

As to construction of sewers, wells, pumps, &c., for parishes, &c., with less than 2000 inhabitants, and in which this act is not otherwise applied.

L. And be it enacted, that if it shall appear to a majority of not less than three-fifths of the rated inhabitants of any parish or place containing less than two thousand inhabitants on the then last census in which this act shall not have been applied by order in council or provisional order as aforesaid, assembled at a public meeting to be called as is hereinafter provided, that it would contribute to the health and convenience of the inhabitants that any pond, pool, open ditch, sewer, drain, or place containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, should be drained, cleansed, covered, or filled up, or that a sewer should be made or improved, a well dug, or a pump provided, for the public use of the inhabitants, the churchwardens and overseers of such parish or place shall procure a plan and an estimate of the cost of executing such works, or any of them, and shall lay the same before another public meeting of such rated inhabitants, to be called as is hereinafter provided; and if the same shall be approved and sanctioned by a majority of the rated inhabitants assembled at such last-mentioned meeting, such churchwardens and overseers shall cause the works in respect of which such estimate shall have been made and sanctioned as aforesaid to be executed, and shall pay the cost thereof out of the poor rates of such parish or place: provided always, that notice of every such meeting shall be given by such churchwardens and overseers as is by this act directed to be given by superintending inspectors, before proceeding upon inquiries previously to the application of this act, and every such notice shall also contain a statement of the works proposed or intended to be submitted for consideration and approval (*a*).

Penalty on persons erecting houses without water-closets, &c.

Local board may, upon report of surveyor, order water-closets, &c., to be erected in houses, whether built before or after this act is applied, &c.

LI. And be it enacted, that it shall not be lawful newly to erect any house, or to rebuild any house pulled down to or below the floor commonly called the ground floor, without a sufficient water-closet or privy and an ashpit, furnished with proper doors and coverings; and whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds; and if at any time, upon the report of the surveyor, it appear to the local board of health that any house, whether built before or after the time when this act is applied to the district in which it is situate, is without a sufficient water-closet or privy and an ashpit, furnished with proper doors and coverings, the said local board shall give notice in writing to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified therein, to provide a sufficient watercloset or privy and an ashpit, so furnished as aforesaid, or either of them, as the case may require; and if such notice be not complied with the said local board may, if they shall think fit, cause to be constructed a sufficient watercloset or privy and an ashpit, or either of them, or do such other works as the case may require; and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or by order of the said local board shall be declared to be private improvement expenses, and be recoverable as such in manner hereinafter provided (*b*): provided always, that where a watercloset or privy has been and is used in common by the inmates of two or more houses, or if, in the opinion of the said local board, a watercloset or privy may be so used, they need not require the same to be provided for each house.

Certain waterclosets to be constructed in factories, &c.

LII. And be it enacted, that if at any time it appear to the local board of health, upon the report of the surveyor, that any house is used or intended to be used as a factory or building in which persons of both sexes, and above twenty in number, are employed or intended to be employed at one time in any manufacture, trade, or business, the said local board may, if they shall think fit, by notice in writing to the owner or occupier of such

(*a*) See 23 & 24 Vict. c. 77, ss. 7, 8. (*b*) See notes, pp. 40, 42.

house, require them or either of them, within a time to be specified in such notice, to construct a sufficient number of waterclosets or privies for the separate use of each sex; and whosoever neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding twenty pounds, and a further penalty not exceeding forty shillings for every day during which the default is continued. 11 & 12 Vict. c. 63.

*Notice of building and rebuilding, with respect to levels of houses, situation of privies, &c.*

LIII. *And be it enacted, that, fourteen days at the least before beginning to dig or lay out the foundations of or for any new house, or to rebuild any house pulled down to the extent aforesaid, the person intending so to build or rebuild shall give to the local board of health written notice thereof, together with the level or intended level of the cellars or lowest floor, and the situation and construction of the privies and cesspools to be built, constructed, or used in connexion with such house; and it shall not be lawful to begin to build or rebuild any such house, or to build or construct any such privy or cesspool, until the particulars so required to be stated have been approved by the said local board; and in default of such notice, or if any such house, privy, or cesspool be built, rebuilt, or constructed as aforesaid without such approval, or in any respect contrary to the provisions of this act, the offender shall be liable to a penalty not exceeding fifty pounds; and the said local board may, if they shall think fit, cause such house, privy, or cesspool to be altered, pulled down, or otherwise dealt with as the case may require, and the expenses incurred by them in so doing shall be repaid by the offender, and be recoverable from him in the summary manner hereinafter provided: provided always, that if the said local board fail to signify their approval or disapproval of the said particulars for the space of fourteen days after receiving such notice, it shall be lawful to proceed according to such notice, if the same be otherwise in accordance with the provisions of this act* (a).

Local board to provide that drains, water-closets, &c., do not become a nuisance.

LIV. And be it enacted, that the local board of health shall see and provide that all drains whatsoever, and the waterclosets, privies, cesspools, and ashpits within their district, are constructed and kept so as not to be a nuisance or injurious to health; and the surveyor may, by written authority of the said local board (who are hereby empowered to grant such authority, upon the written application of any person showing that the drain, watercloset, privy, cesspool, or ashpit in respect of which application is made is a nuisance or injurious to health, but not otherwise), and after twenty-four hours' notice in writing, or in case of emergency without notice, to the occupier of the premises to which such drain, watercloset, privy, cesspool, or ashpit is attached or belongs, enter such premises, with or without assistants, and cause the ground to be opened, and examine and lay open such drain, watercloset, privy, cesspool, or ashpit; and if the drain, watercloset, privy, cesspool, or ashpit in respect of which such examination is made be found to be in proper order or condition, he shall cause the ground to be closed (b), and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the said local board; but if upon such examination such drain, watercloset, privy, cesspool, or ashpit appear to be in bad order and condition, or to require alteration or amendment, he shall cause the ground to be closed, and the said local board shall cause notice in writing to be given to the owner or occupier of the premises upon or in respect of which the examination was made, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to do the necessary works; and if such notice be not complied with the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the said local board may, if they shall think fit, execute such works, and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or by

(a) See 21 & 22 Vict. c. 98, s. 34. (b) See *ibid.*, s. 33

11 & 12 Vict. c. 63.

order of the said local board shall be declared to be private improvement expenses, and be recoverable as such in the manner hereinafter provided.

Surface Cleansing, &c.

*Cleansing of streets, removal of dust, &c.*

LV. *And be it enacted, that the local board of health shall from time to time and at all convenient times provide that all streets within their district, including the foot pavements thereof, are properly swept, cleansed, and watered, and that all dust, ashes, rubbish, filth, dung, and soil thereon are collected and removed; and they may make byelaws with respect to the removal by the occupier or (in case of his default) by the said local board of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found in or about any house, stable, cowhouse, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street, or so as to be a nuisance to any person, and with respect to the times and manner of cleansing and emptying watercloseets, privies, and cesspools* (a).

Local board to cause places for deposit of dust, soil, &c., to be provided.

LVI. And be it enacted, that the local board of health may, in their discretion, provide, in proper and convenient situations, boxes or other conveniences for the temporary deposit and collection of dust, ashes, and rubbish, and also fit buildings and places for the deposit of the sewage, soil, dung, filth, ashes, dust, and rubbish collected by such board; *and all sewage, soil, dung, filth, ashes, dust, and rubbish so collected by the said local board, or in any convenience provided as aforesaid, shall be vested in and be sold and disposed of by such board, and the proceeds thereof shall be carried to the district fund account hereinafter mentioned; and whosoever, without the consent of the said local board, collects or removes any sewage, soil, dung, filth, ashes, dust, or rubbish belonging to them, shall for every such offence be liable to a penalty not exceeding forty shillings* (a).

Public necessaries.

LVII. And be it enacted, that the local board of health may, if they think fit, provide and maintain, in proper and convenient situations, watercloseets, privies, and other similar conveniences for public accommodation, and defray the necessary expenses out of the district rates to be levied under this act.

*Nuisances.*

Offensive ditches, drains, &c., to be cleansed or covered.

LVIII. And be it enacted, that the local board of health shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health; and they shall cause written notice to be given to the person causing any such nuisance, or to the owner or occupier of any premises whereon the same exists, requiring him, within a time to be specified in such notice, to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge thereof, as the case may require; and if the person to whom such notice is given fail to comply therewith, the said local board shall execute the works mentioned or referred to therein, and the expenses incurred by them in so doing shall be recoverable by them from him in a summary manner, or by order of the said local board shall be declared to be private improvement expenses, and be recoverable as such in the manner hereinafter provided: provided always, that the said local board may order that the whole or a portion of the expenses incurred in respect of any such last-mentioned works be defrayed out of the *special or* general district rates to be levied under this act, and in case of any such order the whole or such portion of the expenses as may be mentioned therein shall be defrayed and levied accordingly.

Penalties for keeping swine, &c., in improper situations; allowing waste water to remain in cellars, &c.

LIX. And be it enacted, that whosoever keeps any swine or pigstye in any dwelling house, or so as to be a nuisance to any person, or suffers any waste or stagnant water to remain in any cellar or place within any dwelling house for twenty-four hours after written notice to him from the local board of health to remove the same, and whosoever allows the contents of any watercloset, privy, or cesspool to overflow or soak there-

(a) See 21 & 22 Vict. c. 98, s. 32.

from, shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty of five shillings for every day during which the offence is continued; and the said local board shall abate or cause to be abated every such nuisance, and the expenses incurred by them in so doing shall be repaid to them by the occupier of the premises upon which the same exists, and be recoverable from him in the summary manner hereinafter provided; and if at any time it appear to the inspector of nuisances that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter whatsoever, ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if at the expiration of twenty-four hours after such notice the same be not complied with, the manure, dung, soil, or filth, or matter referred to, shall be vested in and be sold or disposed of by the said local board, and the proceeds thereof shall be carried to the district fund account (*a*) hereinafter mentioned.

11 & 12 Vict. c. 63.

Removal of filth, on certificate of inspector of nuisances.

LX. And be it enacted, that if upon the certificate of the officer of health (if any), or of any two medical practitioners, it appear to the local board of health that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any house or part thereof would tend to prevent or check infectious or contagious disease, the said local board shall give notice in writing to the owner or occupier of such house or part thereof to whitewash, cleanse, or purify the same, as the case may require; and if the person to whom notice is so given fail to comply therewith within such time as shall be specified in the said notice, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the said local board may, if they shall think fit, cause such house, building, or part thereof, to be whitewashed, cleansed, or purified, and the expenses incurred by them in so doing shall be repaid by the owner or occupier in default, and be recoverable from either of them in the summary manner hereinafter provided.

Houses to be purified, on certificate of officer of health, or of two medical practitioners.

LXI. *And be it enacted, that every building or place used as a slaughter-house shall, within three months after this act is applied to the district in which it is situate, or, in the case of a building or place newly used as a slaughter-house after that time, within three months after the commencement of such user, be registered by the owner or occupier thereof at the office of the said local board in a book which shall be kept by such board for that purpose; and whosoever uses or suffers to be used any building or place as a slaughter-house without its being registered as required by this act, shall be liable for every such offence to a penalty not exceeding five pounds, and a further penalty not exceeding ten shillings for every day during the continuance of the offence after written notice thereof from the said local board* (*b*).

Slaughter-houses, &c.

*Slaughter-houses to be registered.*

LXII. And be it enacted, that the local board of health may from time to time, if they shall think fit, provide premises for the purpose of being used as slaughter-houses; and they shall make byelaws for and with respect to the management and charges for the use of the premises so provided, *and with respect to the inspection of all slaughter-houses* (*b*), and for keeping the same in a cleanly and proper state: provided always, that nothing herein contained shall prejudice or affect the rights, privileges, powers, or authorities of any persons incorporated by any local act of parliament passed before the passing of this act for the purpose of making and maintaining slaughter-houses for the accommodation of any city, town, borough, or place.

Local board may provide slaughter-houses, and make byelaws with respect to slaughter-houses *in general.*

(*a*) See 21 & 22 Vict. c. 98, s. 32.
(*b*) *Ibid.*, s. 48. See also *ibid.*, s. 45, and forms of Byclaws, *post.*

11 & 12 Vict. c. 63.

Power to inspector of nuisances to enter places used for sale of butcher's meat, &c.

LXIII. And be it enacted, that the inspector of nuisances may and he is hereby empowered, at all reasonable times, with or without assistants, to enter into and inspect any shop, building, stall, or place kept or used for the sale of butcher's meat, poultry, or fish, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, or fish, which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, or fish appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized; and if it appear to a justice, upon the evidence of a competent person, that any such animal, carcase, meat, poultry, game, flesh, or fish is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the person to whom such animal, carcase, meat, poultry, game, flesh, or fish belongs, or in whose custody the same is found, shall be liable to a penalty not exceeding ten pounds for every animal or carcase, fish, or piece of meat, flesh, or fish, or any poultry or game, so found, which penalty may be recovered before two justices in the manner hereinafter provided with respect to penalties the recovery whereof is not expressly provided for (*a*).

Offensive trades newly established to be subject to regulation of local board of health.

LXIV. And be it enacted, that the business of a blood-boiler, bone-boiler, fellmonger, slaughterer of cattle, horses, or animals of any description, soap-boiler, tallow-melter, tripe-boiler, or other noxious or offensive business, trade, or manufacture, shall not be newly established, in any building or place, after this act is applied to the district in which such building or place is situate without the consent of the local board of health, *unless the said general board shall otherwise direct* (*b*); and whosoever offends against this enactment shall be liable for each offence to a penalty of fifty pounds, and a further penalty of forty shillings for each day during which the offence is continued; and the said local board may from time to time make such byelaws with respect to any such businesses so newly established as they may think necessary and proper, in order to prevent or diminish the noxious or injurious effects thereof.

Act not to affect present law as to nuisances.

LXV. And be it declared and enacted, that nothing in this act shall be construed to render lawful any act, matter, or thing whatsoever, which but for this act would be deemed to be a nuisance, nor to exempt any person from any liability, prosecution, or punishment to which he would have been otherwise subject in respect thereof.

*Lodging houses.*

Common lodging houses to be registered.

LXVI. And be it enacted, that it shall not be lawful to keep any common lodging house unless the same be registered as next hereinafter-mentioned (*c*); and the local board of health shall cause a register to be kept in which shall be entered the name of every person applying to register any common lodging house kept by him, and the situation of every such house; and the said local board shall from time to time make byelaws (*d*), for fixing the number of lodgers who may be received into each house so registered for promoting cleanliness and ventilation therein, and with respect to the inspection thereof, and the conditions and restrictions under which such inspection may be made; and the person keeping any such lodging house shall give access to the same when required by any persons who shall produce the written authority of the said local board in this behalf, for the purpose of inspecting the same, or for introducing or using therein any disinfecting process, and the expenses incurred by the said local board in so introducing or using any disinfecting process shall be recoverable by them in a summary manner from the person keeping the lodging house in which the same shall have been used or introduced; and whosoever shall receive lodgers in any common lodging house without

Penalty on neglect.

(*a*) See s. 129, *post*.
(*b*) See 21 & 22 Vict. c. 98, s. 8. See note, p. 58.
(*c*) See "Common Lodging Houses," p. 82, and the acts 14 & 15 Vict. c. 28, and 16 & 17 Vict. c. 41, *post*.
(*d*) See forms for byelaws, *post*.

having registered the same as required by this act, or shall refuse to admit therein, at any time between the hour of eleven in the forenoon and the hour of four in the afternoon, any person authorised by the said local board as last aforesaid, shall for every such offence be liable to a penalty not exceeding forty shillings.

*Occupation of cellars, &c.*

LXVII. And be it enacted, that it shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any vault, cellar, or underground room built or rebuilt after the passing of this act, or which shall not have been so let or occupied before the passing of this act; and it shall not be lawful to let or continue to let, or to occupy or suffer to be occupied, separately as a dwelling, any vault, cellar, or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be at least three feet of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the same vault, cellar, or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground, an open area of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, nor unless there be appurtenant to such vault, cellar, or room the use of a watercloset or privy and an ashpit, furnished with proper doors and coverings kept and provided according to the provisions of this act, nor unless the same have a fire-place with a proper chimney or flue, nor unless the same have an external window of at least nine superficial feet in area clear of the sash frame, and made to open in such manner as shall be approved by the surveyor, except in the case of an inner or back vault, cellar, or room let or occupied along with a front vault, cellar, or room as part of the same letting or occupation, in which case the external window may be of any dimensions, not being less than four superficial feet in area clear of the sash frame; and whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, for hire or rent, any vault, cellar, or underground room, contrary to this act, shall be liable for every such offence to a penalty not exceeding twenty shillings for every day during which the same continues to be so let or occupied after notice in writing from the local board of health in this behalf: provided always, that in any area adjoining a vault, cellar, or underground room there may be steps necessary for access to such vault, cellar, or room, if the same be so placed as not to be over, across, or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar, or room a clear space of six inches at the least, and that over or across any such area there may be steps necessary for access to any building above the vault, cellar, or room to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window: provided also, that every vault, cellar, or underground room in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this act: provided also, that the provisions of this act with respect to the letting and occupation of vaults, cellars, and underground rooms shall not, so far as the same relate to vaults, cellars, and underground rooms which shall have been let or occupied as dwellings before the passing of this act, come into force or operation until the expiration of one year from the passing of this act, nor within any district until the expiration of six months from the time when this act shall have been applied thereto; and all churchwardens and overseers of the poor shall from time to time after the passing of this act cause public notice of the provisions of this act with respect to the letting and occupation of vaults, cellars, and underground rooms to be given in

Cellars, &c., newly built not to be let as dwelling rooms.

No cellars, &c., to be let except under certain conditions.

Act not to come into operation until the expiration of a certain time, in case of cellars, &c., already occupied as dwellings.

Churchwardens, &c., to give

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such manner as may appear to them to be best calculated to make the same generally known.

notice of enactment.

*Management of streets.*

Management of streets vested in local board.

LXVIII. And be it enacted, that all present and future streets, being or which at any time become highways (*a*) within any district, and the pavements, stones, and other materials thereof, and all buildings, implements, and other things provided for the purposes thereof by any surveyor of highways, or by any person serving the office of surveyor of highways, shall vest in and be under the management and control of the said local board of health; and the said local board shall from time to time cause all such streets to be levelled, paved, flagged, channelled, altered, and repaired, as and when occasion may require, and they may from time to time cause the soil of any such street to be raised, lowered, or altered as they may think fit, and place and keep in repair fences and posts for the safety of foot passengers; and whosoever wilfully displaces, takes up, or injures the pavement, stones, materials, fences, or posts of any such street, without the consent of the said local board, shall be liable for every such offence to a penalty not exceeding five pounds, and a further sum not exceeding five shillings for every square foot of the pavement, stones, or other materials so displaced, taken up, or injured.

Power to compel paving, &c., of private streets.

LXIX. And be it enacted, that in case any present or future street, or any part thereof (not being a highway), be not sewered, levelled, paved, flagged, and channelled to the satisfaction of the local board of health, such board may, by notice in writing to the respective owners or occupiers of the premises fronting, adjoining, or abutting upon such parts thereof as may require to be sewered, levelled, paved, flagged, or channelled, require them to sewer, level, pave, flag, or channel the same within a time to be specified in such notice (*b*); and if such notice be not complied with, the said local board may, if they shall think fit, execute the works mentioned or referred to therein; and the expenses incurred by them in so doing shall be paid by the owners in default, according to the frontage of their respective premises, and in such proportion as shall be settled by the surveyor, or in case of dispute as shall be settled by arbitration (having regard to all the circumstances of the case) in the manner provided by this act; and such expenses may be recovered from the last-mentioned owners in a summary manner, or the same may be declared by order of the said local board to be private improvement expenses, and be recoverable as such in the manner hereinafter provided.

Certain streets not highways to be deemed such, and repaired by local board.

LXX. And be it enacted, that if any present or future street (*b*), not being a highway at the time when this act is applied to the district in which it is situate, be sewered, levelled, paved, flagged, and channelled to the satisfaction of the local board of health, the said local board may, if they shall think fit, by notice in writing put up in any part of the street declare the same to be a highway, and thereupon the same shall become a highway, and be from time to time repaired by them out of the rates levied in that behalf under the authority of this act; and every such notice shall be entered amongst the proceedings of the said local board: provided always, that no street shall become a highway as last aforesaid if within one month after notice in writing shall have been put up as last aforesaid the proprietor of such street, or the person representing or entitled to represent such proprietor, shall by notice in writing to the said local board object thereto.

Power to require gas and water pipes to be moved.

LXXI. And be it enacted, that if and when for the purposes of this act the local board of health deem it necessary to raise, sink, or otherwise alter the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks laid in or under any street, they may by notice in writing require the person to whom the pipes, mains, plugs, or works belong to raise,

(*a*) See 15 & 16 Vict. c. 42, and note, p. 71.

(*b*) See 21 & 22 Vict. c. 98, s. 38; 24 & 25 Vict. c. 61, ss. 16—17. See also note, p. 70.

sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expenses attendant upon or connected with any such alteration shall be paid by the said local board out of the general district rates levied under this act; and if such notice be not complied with, the said local board may make the alteration required: provided always, that no such alteration shall be required or made which will permanently injure any such pipes, mains, plugs, or works, or prevent the water or gas from flowing as freely and conveniently as usual; provided also, that where under any local act of parliament the expenses attendant upon or connected with the raising, sinking, or otherwise altering the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks, are or shall be directed to be borne by the person to whom such pipes or works belong, his liability in that respect shall continue, in the same manner and under the same conditions in all respects as if this act had not been passed. 11 & 12 Vict. c. 63.

*Notice to be given to local board before laying out new streets, who shall fix the levels and widths thereof.*

LXXII. *And be it enacted, that one month at the least before any street is newly laid out as aforesaid written notice shall be given to the local board of health, showing the intended level and width thereof; and the level and width of every such street shall be fixed by the said local board, and it shall not be lawful to lay out, make, or build upon any such street, otherwise than in accordance with the level and width so fixed, unless, upon disapproval by the said local board of the level or width specified in such notice, the general board of health shall otherwise direct; and whosoever shall lay out, make, or build upon any such street, otherwise than in accordance with the level and width fixed by the said local board, or approved by the said general board, shall be liable for every such offence to a penalty not exceeding twenty pounds for every day during which he shall permit or suffer such street to continue to be so improperly laid out, made, or built upon; and the said local board may, if they shall think fit, cause any such street laid out or made at a level or width otherwise than in accordance with the level and width so fixed or approved as aforesaid, or any building built in any such street otherwise than in accordance with such level and width, to be altered in such manner as the case may require, and the expenses incurred by them in so doing shall be repaid to them by the offender, and be recoverable from him in a summary manner: provided always, that if no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the said local board within one month from the last-mentioned notice, the intended street may be laid out and made upon the level and of the width specified in such notice, if the same be otherwise in accordance with the other provisions of this act* (a).

Local board may purchase premises in order to improve streets.

LXXIII. And be it enacted, that the said local board may, by agreement, purchase any premises for the purpose of widening, opening, enlarging, or otherwise improving any street (b), and any part of the premises so purchased which shall not be wanted for that purpose shall be resold at the best price that can be gotten for the same, and the proceeds of such resale shall be carried to the district fund account hereinafter mentioned.

*Public Pleasure Grounds.*

Local board may provide places of public recreation, &c.

LXXIV. And be it enacted, that the local board of health, *with the approval of the said general board* (c), may provide, maintain, lay out, plant, and improve premises for the purpose of being used as public walks or pleasure grounds, and support or contribute towards any premises provided for such purposes by any person whomsoever.

*Supply of water.*

Local board

LXXV. And be it enacted, that the local board of health may provide their district with such a supply of water as may be proper and sufficient

(a) See 21 & 22 Vict. c. 98, s. 34.
(b) See *ibid.*, s. 36, also 12 & 13 Vict. c. 94, s. 8.
(c) See 21 & 22 Vict. c. 98, s. 8.

11 & 12 Vict. c. 63.

to provide sufficient supplies of water, and may erect waterworks, &c.

In case of waterworks constructed by local board, the water may be kept constantly under pressure.

Local board not to construct waterworks &c., if any waterworks company within their district be able and willing to supply water upon terms.

for the purposes of this act (*a*) and for private use to the extent required by this act; and for those purposes or any of them, the said local board may from time to time, *with the approval of the general board of health* (*b*), contract with any person whomsoever, or purchase, take upon lease, hire, construct, lay down, maintain such waterworks, and do and execute all such works, matters, and things as shall be necessary and proper; and any waterworks company may contract with the local board of health to supply water for the purposes of this act in any manner whatsoever, or may sell and dispose of or lease their waterworks to any local board of health willing to take the same (*c*); and the said local board may provide and keep in any waterworks constructed or laid down by them under the powers of this act a supply of pure and wholesome water, and the water so supplied may be constantly laid on at such pressure as will carry the same to the top story of the highest dwelling-house within the district supplied: provided always, that before constructing or laying down any waterworks under the powers of this act within any limits within, for, or in respect of which any waterworks company shall have been established for supplying water, the said local board shall give notice in writing to every waterworks company within whose limits the said local board may be desirous of laying on or supplying water, stating the purposes for and (as far as may be practicable) the extent to which water is required by the said local board; and it shall not be lawful for the said local board to construct or lay down any waterworks within such limits, if and so long as any such company shall be able and willing to lay on water proper and sufficient for all reasonable purposes, for which it is required by the said local board, and upon such terms as shall be *certified to be reasonable by the general board of health, after inquiry and report by a superintending inspector in this behalf or (in case such company shall be dissatisfied with such certificate) upon such terms as shall be* (*b*) settled by arbitration in the manner provided by this act; and in case any difference shall arise as to whether the water which any such company is able and willing to supply or lay on is proper and sufficient for the purposes for which it is required by the said local board, or whether the purposes for which it is required are reasonable, the same shall be settled by arbitration in the manner provided by this act.

Local board may require that houses be supplied with water, &c., in certain cases.

LXXVI. And be it enacted, that if upon the report of the surveyor it appear to the local board of health that any house is without a proper supply of water, and that such a supply of water can be furnished thereto at a rate not exceeding twopence *per* week (*d*), the said local board shall give notice in writing to the occupier, requiring him, within a time to be specified therein, to obtain such supply, and to do all such works as may be necessary for that purpose; and if such notice be not complied with the said local board may, if they shall think fit, do such works, and obtain such supply accordingly, and make and levy water rates upon the premises, not exceeding in the whole the rate of twopence *per* week, in manner hereinafter provided, as if the owner or occupier of the premises had demanded a supply of water, and were willing to pay water rates for the same; and the expenses incurred by them in doing such works as last aforesaid shall be private improvement expenses, and be recoverable as such in the manner hereinafter provided (*d*).

Water for public baths, or trading or manufacturing purposes.

LXXVII. And be it enacted, that the local board of health may, if they shall think fit, supply water from any waterworks purchased or constructed by them under this act to any public baths or wash-houses, or for trading or manufacturing purposes, upon such terms and conditions as may be agreed upon between the said local board and the persons desirous of being so supplied.

(*a*) See 21 & 22 Vict. c. 98, s. 52. (*b*) See *ibid.*, s. 8.
(*c*) See *ibid.*, s. 53. (*d*) See *ibid.*, s. 51, and see instructions, post.

11 & 12 Vict. c. 63.

Maintenance and construction of public cisterns for gratuitous use.

LXXVIII. And be it enacted, that the local board of health may cause all existing public cisterns, pumps, wells, reservoirs, conduits, aqueducts, and works used for the gratuitous supply of water to the inhabitants to be continued, maintained, and plentifully supplied with water, or they may substitute, continue, maintain, and plentifully supply with water other such works equally convenient; and the said local board may, if they shall think fit, construct any number of new cisterns, pumps, wells, conduits, and works for the gratuitous supply of any public baths or wash-houses established otherwise than for private profit, or supported out of any poor or borough rates (a).

Penalty for injuring waterworks diverting streams, or wasting water.

LXXIX. And be it enacted, that whosoever shall wilfully or carelessly break, injure, or open any lock, cock, waste pipe, or waterworks belonging to or under the management or control of the local board of health, or constructed, continued, or maintained under this act, in any parish or place in which there shall be no local board of health, or shall unlawfully flush, draw off, divert, or take water from any waterworks belonging to or under the management or control of the said local board, or so constructed, continued, or maintained in any such parish or place, or from any waters or streams by which such waterworks are supplied, or shall wilfully or negligently waste or cause to be wasted any water with which he is supplied by the said local board, shall for every such offence forfeit a sum not exceeding five pounds, and a further penalty of twenty shillings for each day whilst the offence is continued after written notice in that behalf, which penalties shall be paid to the said local board, or, in the case of a parish or place in which there shall be no local board of health, to the churchwardens and overseers of the poor, to be by them applied in aid of the rate for the relief of the poor of such parish or place: provided always, that nothing herein contained shall prevent the owner or occupier of any premises through or by which any streams may flow from using the same as they would have been entitled to do if this act had not been passed.

Penalties on persons for causing water in reservoirs to be fouled;

LXXX. And be it enacted, that whosoever shall bathe in any stream, reservoir, conduit, aqueduct, or other waterworks belonging to or under the management or control of the local board of health, or in any reservoir, conduit, aqueduct, or other waterworks constructed, continued, or maintained under this act in any parish or place in which there shall be no local board of health, or shall wash, cleanse, throw, or cause to enter therein any animal, rubbish, filth, stuff, or thing of any kind whatsoever, or shall cause or permit or suffer to run or be brought therein the water of any sink, sewer, drain, engine, or boiler, or other filthy, unwholesome, or improper water, or shall do anything whatsoever whereby any water belonging to the said local board or under their management or control, or whereby any water of or contained in any such reservoir, conduit, aqueduct, or other waterworks so constructed, continued, or maintained in any such parish or place as aforesaid shall be fouled, shall for every such offence forfeit a sum not exceeding five pounds, and a further sum of twenty shillings for each day whilst the offence is continued after written notice in that behalf; which penalties shall be paid to the said local board, or, in the case of a parish or place in which there shall be no local board of health, to the churchwardens and overseers of the poor, to be by them applied in aid of the rate for the relief of the poor of such parish or place; and whosoever, being proprietor of any gasworks, or being engaged or employed in the manufacture or supply of gas, causes or suffers to be brought or to flow into any stream, reservoir, conduit, aqueduct, or waterworks belonging to or under the management or control of the said local board, or into any drain or pipe communicating therewith, any washing or other substance produced in the manufacture or supply of gas, or shall wilfully do any act connected with the manufacture or supply of gas whereby the water in any

and on proprietors of gasworks, &c.

(a) See 21 & 22 Vict. c. 98, s. 45; also "Baths and Wash-houses," p. 48.

11 & 12 Vict. c. 63.

such stream, reservoir, aqueduct, or waterworks is fouled, shall forfeit to the said local board for every such offence the sum of two hundred pounds, and, after the expiration of twenty-four hours' notice in writing from them in this behalf, a further sum of twenty pounds for every day during which the offence is continued, or during the continuance of the act whereby the water is fouled; and every such penalty shall be recoverable, with full costs of suit, by action of debt; and if any water supplied by, belonging to, or under the management or control of the said local board be fouled in any manner by the gas of any such proprietor or person as last aforesaid, he shall forfeit to the local board for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds (*a*) for every day whilst the offence is continued after the expiration of twenty-four hours' notice in writing from the said local board in this behalf; and for the purpose of ascertaining whether such water is fouled by the gas of any such proprietor or person the said local board may lay open and examine any pipes, conduits, and works from which the gas is supposed to escape; provided that before beginning so to do twenty-four hours' notice in writing be given to the person to whom such pipes, conduits, or works belong, or under whose management or control they may be, of the time at which the examination is intended to be made; and if upon such examination it appear that the water has been fouled by the gas proceeding from or contained in the pipes, conduits, or works examined, the expenses of the examination shall be paid and borne by the person to whom such pipes, conduits, or works belong, or under whose management or control they may be, and be recoverable from him in the summary manner hereinafter provided; but if it appear that the water has not been so fouled, then such expenses, and all damages occasioned by the examination, shall be paid by the said local board out of the general district rates levied under this act, and be recoverable from them in the summary manner hereinafter provided.

Reception houses for the dead.

*Power to provide premises for the reception of the dead previously to interment.*

LXXXI. *And for the purpose of preventing the manifold evils occasioned by the retention of the dead in the dwellings of the poor, be it enacted, that the local board of health may, if they shall think fit, provide, fit up, and make byelaws with respect to the management and charges for the use of rooms or premises in which corpses may be received and decently and carefully kept previously to interment; and the said local board may, upon proper application, and subject to such regulations and at such rates and charges as shall be prescribed by any such byelaws, make all necessary arrangements for the decent and economical interment of any corpse which may have been received into any rooms or premises so provided in pursuance of this enactment* (*b*).

Burial Grounds.

*Burial grounds, &c., dangerous to health may be prohibited.*

LXXXII. *And be it enacted, that if upon the representation of the local board of health, and after inquiry and report by a superintending inspector, notified to the lord bishop of the diocese, and made, notified, and published in manner hereinbefore directed, with respect to the inquiry and report of superintending inspectors previously to the constitution of a district under this act, and after inquiry by such other ways and means as the general board of health may think fit to direct, the said general board shall certify (such certificate to be published in the London Gazette, and in some one or more of the public newspapers usually circulated within the district), that any burial ground situate within any district to which this act is applied is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship within any such district is dangerous to the health of persons frequenting the same, by reason of the surcharged state of the vaults or graves within the walls of or underneath the same, and that suffi-*

(*a*) See ss. 129—133, *post*. *Hipkins* v. *Birmingham Gas Company*, 5 H. & N. 74, 30 L. J., Exch. 60. See note (*b*), p. 44.

(*b*) This and two following sections are practically superseded by the burial acts. See "Burial Grounds," p. 87.

*cient means of interment exist within a convenient distance from such burial ground, church, or place of public worship, it shall not be lawful, after a time to be named in such certificate, to bury or permit or suffer to be buried any further corpses or coffins in, within, or under the ground, church, or place of worship to which the certificate relates, except in so far as may be allowed by such certificate; and whosoever, after notice of such certificate, buries, or causes, permits, or suffers to be buried, any corpse or coffin contrary to this enactment, shall for every such offence be liable to a penalty of twenty pounds.* 11 & 12 Vict. c. 63.

*As to interments within churches or burial grounds newly erected or formed.*

LXXXIII. *And be it enacted, that no vault or grave shall be constructed or made within the walls of or underneath any church or other place of public worship built in any district after the passing of this act, and no burial ground shall be made or formed within any district after the passing of this act, without the consent of the general board of health first had and obtained, unless the same be made or formed upon land purchased or authorized by parliament to be appropriated for the purpose of being used as a burial ground before the passing of this act; and whosoever shall bury, or cause, permit, or suffer to be buried, any corpse or coffin in any vault, grave, or burial ground constructed, made, or formed contrary to this enactment, shall for every such offence be liable to a penalty not exceeding fifty pounds, which may be recovered by any person, with full costs of suit, in an action of debt.*

*Purchase, &c., of lands.*

LXXXIV. And be it enacted, that the local board of health, by agreement, may purchase, or take upon lease, sell, or exchange, any lands or premises for the purposes of this act; *and The Lands Clauses Consolidation Act*, 1845, *except the parts and enactments of that act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs, and with respect to lands acquired by the promoters of the undertaking, but which shall not be wanted for the purposes thereof, shall, in so far as the same is consistent with this act, be incorporated with this act; and for the purposes of this act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the local board of health mentioned in this act* (a); and all lands and premises which shall be purchased, hired, or taken on lease by the local board of health of any non-corporate district shall be conveyed, demised, and assured to such local board and their successors, in trust for the purposes of this act, and shall be accepted, taken, and held by them as a body corporate.

Power to local boards to purchase lands, &c., *under* 8 & 9 *Vict.* c. 18.

*Contracts.*

LXXXV. And be it enacted, that the local board of health may enter into all such contracts as may be necessary for carrying this act into execution; and every such contract whereof the value or amount shall exceed ten pounds shall be in writing, and (in the case of a non-corporate district) sealed with the seal of the local board (b) by whom the same is entered into, and signed by five or more members thereof, and (in the case of a corporate district) sealed with the common seal, and shall specify the work, materials, matters, or things to be furnished, had, or done, the price to be paid, and the time or times within which the contract is to be performed, and shall fix and specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed; and every contract so entered into, and duly executed by the other parties thereto, shall be binding on the local board by whom the same is executed, and their successors, and upon all other parties thereto, and their executors, administrators, successors, or assigns, to all intents and purposes: provided always that the said local board may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract, or in any bond or otherwise, for such sums of

Contracts by local board.

Composition for penalties in respect of breach of contracts.

(a) See 21 & 22 Vict. c. 98, s. 75. (b) See note, p. 120.

11 & 12 Vict. c. 63.

money or other recompense as to such local board may seem proper: provided also, that before contracting for the execution of any work

Estimates to be made before commencing works.

the provisions of this act the said local board shall obtain from the surveyor (*a*) an estimate in writing, as well of the probable expense of executing the work in a substantial manner as of the annual expense of maintaining the same (*b*); also a report as to the most advantageous mode of executing, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair for a term of years or otherwise: provided also, that before any contract above the value of 100*l.* is entered into for the execution of any work, the said local board shall cause public notice to be given of the nature and purpose thereof, and inviting tenders for the execution of the same; and the said local board shall require and take sufficient security for the due performance of the same.

As to contracts above the value of 100*l.*

Rates.

*Special district rate.*

LXXXVI. *And be it enacted, that whenever any expenses are incurred or to be incurred by the local board of health in making, enlarging, arching over, covering, or enclosing any sewer vested or to be vested in them by this act, or purchased or acquired by them by virtue thereof, or about any other works, matters, and things of a permanent nature executed or done for the benefit* (c) *of any district or part of a district, the said local board shall make and levy, in respect of the premises situate in the district or part of a district for the benefit of which the expenses have been incurred or to be incurred, a rate or rates, to be called special district rates, of such amount as will be sufficient to discharge the amount of such expenses and interest thereon, within such period, not exceeding thirty years, as the said local board shall in each case determine: provided always, with respect to the cost of making any such new sewer, that if it appear to the surveyors of the said board that any premises were sufficiently drained before the new sewer was made they shall deduct from the amount of rates otherwise chargeable in respect of such premises such a sum and for such time as the said surveyors of the said board may, under all the circumstances of the case, deem to be just.*

District fund account to be kept.

LXXXVII. And be it enacted, that the treasurer shall keep a district fund account, to be called "the district fund account," and the moneys to be applied to such account under the directions of this act shall be applied by the local board of health in defraying such of the expenses incurred or to be incurred by the said local board in carrying this act into execution, as are not otherwise expressly provided for, as they may think proper; and

General district rate.

the said local board shall from time to time, when and as often as occasion may require, make and levy, in addition to any other rate, a rate or rates to be called "general district rates" (*c*), for defraying such expenses as are to be charged upon that rate by this act, and such other expenses of or incidental to this act in any district as are not provided for by any other rate, and to be defrayed out of the said district fund account.

*Property assessable to special and general district rates.*

LXXXVIII. *And be it enacted, that the said special and general district rates shall be made and levied upon the occupier (except in such cases hereinafter provided) of all such kinds of property as by the laws in force for the time being are or may be assessable to any rate for the relief of the poor, and shall be assessed upon the full net annual value of such property as the same shall be ascertained by the rate (if any) for the relief of the poor made next before the making of the respective assessments under this act; and for the purpose of making any such assessment the local board of health or any person appointed by them so to do, may from time to time, at all reasonable times, inspect, take copies of or make extracts from, any rate*

(*a*) See note, p. 120. (*b*) *Ibid.*

(*c*) *I.e.*, direct or indirect; *Dorling* v. *Epsom L. B.*, 5 E. & B. 471, 24 L. J. C. 152.

(*d*) See 21 & 22 Vict. c. 98, s. 54, as to previously existing mortgages of district rates.

(*e*) See note, p. 123.

*relief of the poor within their district, or any assessments by which the same are made; and whosoever, having the custody of such last-mentioned rate or assessment, refuses to permit such inspection, or the taking of any such copy or extract, shall for every such offence be liable to a penalty not exceeding five pounds: provided always, that if in any district or part of a district there be no rate for the relief of the poor, the said special and general district rates shall be made upon an estimate of the net annual value of the several premises liable thereto in such district or part of a district, by a fit person appointed by the local board of health in that behalf, and such estimate shall be made, as near as circumstances will permit, in the manner prescribed by an act passed in the seventh year of the reign of king William the Fourth, intituled "An Act to regulate Parochial Assessments," or any other act for the time being in force for regulating parochial assessments: provided also, that the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal, or towing path for the same, or as a railway, constructed under the powers of any act of parliament, for public conveyance, shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof: provided also, that if within any district or part of a district any kind of property shall before the passing of this act have been exempted from rating by any local act, in respect of all or any of the purposes for which general or special district rates may be made under this act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies, but not further or otherwise, be exempt from assessment to any general or special district rates under this act* (a).

*If in any district there be no rate for relief of the poor, rates shall be made in manner prescribed by 6 & 7 W. 4, c. 96.*

*Exemptions under local acts.*

LXXXIX. And be it enacted, that the local board of health may make and levy the said *special and* general district rates or any or either of them, prospectively, in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses which may have been incurred at any time within six months before the making of the rate; and if at the time of making any general *or special* district rate any premises in respect of which the rate may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged upon any person in respect of the same whilst they continue to be unoccupied; and if any such premises are afterwards occupied during any part of the period for which the rate was made, and before the same shall have been fully paid, the name of the incoming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected, recovered, and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made (b); and if any owner or occupier assessed or liable to any such rate cease to be owner or occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as shall be in proportion to the time during which he continues to be such owner or occupier; and in every such case, if any person afterwards become owner or occupier of the premises during part of the said period, he shall pay such part of the rate as shall be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable; and the said local board may from time to time divide their district,

Rates may be prospective or retrospective.

Assessment to district rates in case of unoccupied premises.

Apportionment of rates between outgoing and incoming tenants, &c.

Parts of dis-

(a) See 21 & 22 Vict. c. 98, s. 55. (b) See note, p. 123.

11 & 12 Vict. c. 63.

or any street therein, into one or more parts, for all or any or either of the purposes of this act, and make a separate assessment upon any such part for and in respect of all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this act: provided always, that if any expenses are incurred or to be incurred in respect of two or more parts of a district in common the same shall be apportioned between them in a fair and equitable manner.

trict may be separately assessed.

Private improvement rates.

XC. And be it enacted, that whenever the local board of health have incurred or become liable to any expenses which by this act are or by the said local board shall be declared to be private improvement expenses, the said local board may, if they shall think fit, make and levy upon the occupier of the premises in respect of which the expenses shall have been incurred, except in the cases hereinafter provided, in addition to all other rates, a rate or rates to be called private improvement rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding five pounds in the hundred, in such period not exceeding thirty years as the said local board shall in each case determine (*a*): provided always, that whenever any premises in respect of which any private improvement rate is made become unoccupied before the expiration of the period for which the rate was made, or before the same is fully paid off, such rate shall become a charge upon and be paid by the owner of the premises so long as the same continue to be unoccupied.

Proportion of private improvement rate may be deducted from rent.

XCI. And be it enacted, that if the occupier by whom any private improvement rate is paid holds the premises in respect of which the rate is made at a rent not less than the rackrent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such rate from the rent payable by him to his landlord (*b*), and if he hold at a rent less than the rackrent he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the rate as his rent bears to the rackrent; and if the landlord from whose rent any deduction is made under the provision last aforesaid is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired, but not otherwise, he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof: provided always, that nothing herein contained shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Redemption of special district and private improvement rates.

XCII. Provided always, and be it enacted, that at any time before the expiration of the period for which any special district rate or private improvement rate is made, the owner or occupier of the premises assessed thereto may redeem the same, by paying to the local board of health the expenses in respect of which the rate was made, or such part thereof as may not have been defrayed by sums already levied in respect of the same.

Water rate.

XCIII. And be it enacted, that whenever and so long as any premises are supplied with water by the local board of health, for the purposes of domestic use (*c*), cleanliness, or drainage, they shall make and levy,

(*a*) See 21 & 22 Vict. c. 98, ss. 57—8.
(*b*) Subject to the terms of any agreement. See *Smith* v. *Humble*, 15 C. B. 321.
(*c*) Water used in stable and coach-house included. *Busby* v. *Chesterfield Co.* See note, p. 43.

in addition to any other rate, a water rate upon the occupier, except as hereinafter provided; and the rate so made shall be assessed upon the net annual value of the premises, ascertained in the manner hereinbefore prescribed with respect to the said special and general district rates; and when several houses in the separate occupation of several persons are supplied by one common pipe, the respective houses shall be charged with the payment of water rates, in the same manner as if each house had been supplied with water by a separate pipe: provided always, that in any district to be called the Oxford or Cambridge district the local board of health, *with the consent of the said general board*, may supply water to any hall, college, or premises of the university within such district, upon such terms with respect to the mode of paying for such supply as shall from time to time be agreed upon between such university, or any hall or college thereof, and the said local board (*a*). 11 & 12 Vict. c. 63. Agreements with universities.

XCIV. And be it enacted, that the said water rate shall be payable in advance; and whenever any person supplied with water under the provisions of this act neglects to pay the water rate due from him, upon demand, the local board of health may prevent the water from flowing into the premises of the defaulter in such manner as they may think fit, and may recover the arrears due, together with the expenses of stopping the supply, in the manner hereinafter provided with respect to the recovery of rates made under the authority of this act: provided always, that the stopping or cutting off any supply of water by the said local board under this enactment shall not relieve any person from any penalty or liability to which he would have been otherwise subject. Water rate payable in advance. Power to stop water in case of nonpayment of rates.

XCV. *Provided always, and be it enacted, that when the net annual value of any premises liable to assessment under this act does not exceed the sum of ten pounds, or whenever any premises liable to such assessment are let to weekly or monthly tenants, or in separate apartments, and the rents become payable or are collected at any shorter period than quarterly, the local board of health may from time to time, if they shall think fit, compound with the owner of such premises for the payment of all or any of the rates to be made under this act, upon such reduced estimate of the net annual value, not being less than two-thirds or more than four-fifths of the net annual value at which the premises are then assessed, as the said local board shall deem to be reasonable; and any owner who shall refuse to enter into such composition shall be rated to and pay the rates assessed upon such premises in respect of which the composition is offered; and if at any time the amount of composition, or any rate to which an owner is assessed as last aforesaid, be due and unpaid, the same may be levied by distress and sale of the goods and chattels of the owner in default, wheresoever they may be found, or of the occupier or occupiers of the premises, in the same manner as is hereinafter provided with respect to the recovery of rates made under this act: provided always, that no such owner shall be assessed in respect of any increased rent which may become payable to him by reason of his so compounding for or becoming liable to any rates as aforesaid: provided also, that the occupier or occupiers of any such premises as last aforesaid shall be liable to distress and sale of his or their goods and chattels for the nonpayment of such amount of composition or rates as may become due in respect of the premises occupied by him or them during his or their tenancy, but shall never be liable to pay any greater sum than the amount of the rent actually due from him or them for such premises; and he or they may deduct any amount paid by him or them from the rent due, or from time to time becoming due, from him or them, unless there be an agreement to the contrary; and the receipt for the* *Composition for and recovery of rates upon tenements under the annual value of ten pounds, &c.*

(*a*) See 21 & 22 Vict. c. 98, s. 72.

*amount paid by him or them shall to that extent be, as against the owner in default, a sufficient discharge for rent* (a).

Power to reduce or remit rates on account of poverty.

XCVI. Provided also, and be it enacted, that it shall be lawful for the local board of health to reduce or remit the payment of any rate on account of the poverty of any person liable to the payment thereof.

Act not to affect existing agreements between landlord and tenant.

XCVII. Provided also, and be it enacted, that nothing in this act shall alter, interfere with, or affect any lease, contract, or agreement which shall have been made or entered into between landlord and tenant before this act is applied to the district in which the premises are situate in respect of which the lease, contract, or agreement was made.

Estimate to be prepared before making rates.

XCVIII. And be it enacted, that the local board of health, before proceeding to make any general *or special* (b) district rate or private improvement rate under this act, shall cause an estimate to be prepared of the money required for the purposes in respect of which the rate is to be made, showing the several sums required for each of such purposes, the rateable value of the property assessable, and the amount of rate which for those purposes it is necessary to make upon each pound of such value; and the estimate so made shall forthwith, after being approved of by the said local board, be entered in the rate book, and be kept at their office, open to public inspection during office hours thereat.

Notice of rate.

XCIX. And be it enacted, that public notice of intention to make any general *or special* (c) district rate, and of the time at which it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the local board of health in the week immediately before the day on which the rate is intended to be made, and at least (c) seven days previously thereto; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given.

Rates to be open to inspection.

C. And be it enacted, that any person interested in or assessed to any rate made under this act may inspect the same, and any estimate made previously thereto, and may take copies of or extracts therefrom, without fee or reward; and whosoever, having the custody of such estimate or rate, refuses to allow or does not permit such inspection, or such copies or extracts to be taken, shall for every such offence be liable to a penalty not exceeding five pounds.

Description of owner or occupier in rates, if his name be unknown.

CI. And be it enacted, that whenever the name of any owner or occupier liable to be rated under this act is not known to the local board of health it shall be sufficient to assess and designate him in the rate as "the owner" or "the occupier" of the premises in respect of which the assessment is made, without further description.

Rates may be amended.

CII. And be it enacted, that the local board of health may from time to time amend any rate made in pursuance of this act, by inserting therein the name of any person claiming and entitled to have his name inserted, or by inserting the name of any person who ought to have been assessed, or by striking out the name of any person who ought not to have been assessed or by raising or reducing the sum at which any person has been assessed if it appear to the said local board that he has been under-rated or over-rated, or by making any other alteration which will make the rate conformable to the provisions of this act; and no such amendment shall be held to avoid the rate: provided always, that any person who may feel himself aggrieved by any such amendment shall have the same right of appeal therefrom as he would have had if the matter of amendment had appeared on the rate originally made, and with respect to him the amended rate shall be considered to have been made at the time when he first received notice of the amendment; and in the case of any person the amount of whose rate is increased by the amendment, or whose name is thereby

(a) Sec 21 & 22 Vict. c. 98, s. 55. (b) *Ibid.*, s. 54. (c) *Ibid.*, s. 54.

newly inserted as aforesaid, the rate shall not be payable by him until seven days after such notice shall have been given to him. 11 & 12 Vict. c. 63.

Rates made under this act to be published as poor rates, and collected as local board shall appoint.

CIII. And be it enacted, that all rates made or collected under the authority of this act shall be published in the same manner as poor rates (*a*), and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the local board of health shall from time to time appoint; and if any person assessed to any such rate fail to pay the same when due, and for the space of fourteen days after the same shall have been lawfully demanded in writing, any justice may and he is hereby empowered to summon the defaulter to appear before him, or any other justice, at a time and place to be mentioned in the summons, to show cause why the rate in arrear should not be paid (*a*); and in case the defaulter fail to appear according to the exigency of the summons, or no sufficient cause for nonpayment be shown, the justice may, by warrant under his hand and seal, cause the same to be levied by distress of the goods and chattels of the defaulter (*a*): provided always, that if no distress sufficient to satisfy the amount can be found within the jurisdiction of the justice by whom such warrant is granted, and it so appear upon oath before a justice of any other county or jurisdiction in which any goods or chattels of the defaulter may be, the last-mentioned justice shall endorse his signature upon the said warrant, and thereupon the amount to be levied, or so much thereof as may be unsatisfied, shall be levied off the last-mentioned goods and chattels (*b*), in the same manner as if the defaulter had been assessed in the last-mentioned county or jurisdiction; and if any person quit or be about to quit any premises without payment of any rate then due from him in respect of such premises under this act, and refuse to pay the same after lawful demand thereof in writing, any justice having jurisdiction where such person resides or his goods are found may and he is hereby empowered to summon him to appear, at a time and place to be mentioned in the summons, to show cause why the rate so due should not be paid; and in case the defaulter fail to appear, or no sufficient cause for nonpayment be shown, the justice may, by warrant under his hand and seal, cause the sum to be levied by distress of the goods and chattels of the defaulter.

Justices may summon persons for non-payment, and in default may recover by distress.

Form of distress warrant.

CIV. And be it enacted, that warrants of distress for the recovery of any rate payable under the authority of this act may be in the form contained in the schedule (D.) annexed to this act, or to the like effect; and any constable authorised by any such warrant who shall neglect or refuse to make distress or sale pursuant to the same, after being required so to do by a collector of the district in which the rate in arrear was made, shall be liable to a penalty not exceeding five pounds.

Penalty upon constables refusing to levy.

Quota of rates to be paid by the universities, &c.

CV. Provided always, and be it enacted, that nothing in this act shall be deemed to alter or interfere with the liability of the universities of Oxford and Cambridge respectively to contribute in the proportion and manner specified in any local act under which the Oxford and Cambridge commissioners respectively now act towards the expense of paving and pitching, repairing, lighting, and cleansing, under the powers of any such local act, the several streets, lanes, ways, alleys, passages, and places within the jurisdiction of such commissioners respectively (*c*); *and in case any difference shall arise between either of the said universities and the local board of health with respect to the proportion and manner in which the university shall contribute towards any expenses under this act, and to which the university is not liable under any such local act, the same shall*

(*a*) See 21 & 22 Vict. c. 98, s. 54. As to the effect of non-publication, see *Lefeuvre* v. *Miller*, 8 E. & B. 231, 3 Jur., N.S. 1255, 26 L. J., M. C. 175.
(*b*) See note, p. 124.
(*c*) See 21 & 22 Vict. c. 98, s. 82.

11 & 12 Vict. c. 63.

*be settled by the general board of health:* provided also, that all rates, contributions, and sums of money which may become payable under this act by the said universities respectively, and their respective halls and colleges may be recovered from such universities, halls, and colleges, in the same manner in all respects as rates, contributions, and sums of money may now be recovered from them by virtue of any such local act.

Evidence of rates.

CVI. And be it enacted, that the production of the books purporting to contain any rate or assessment made under this act shall alone, and without any other evidence whatsoever, be received as *primâ facie* evidence of the making and validity of the rates mentioned therein.

Mortgage of rates.

*Rates may be mortgaged.*

CVII. *And be it enacted, that the local board of health may, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of this act, borrow and take up at interest, on the credit of the rates authorised to be made or collected under this act, any sums of money necessary for defraying any such costs, charges, and expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the said local board may mortgage and assign over to the persons by or on behalf of whom such sums are advanced the respective rates upon the credit of which the sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the rates comprised in their respective mortgages according to the sums in such mortgages mentioned to have been advanced; and each mortgagee shall be repaid the sums so advanced, with interest, without any preference over the others of them by reason of any priority of advance or the date of his mortgage: provided always, that the money borrowed under the authority of this act shall be borrowed only for works of a permanent nature, and shall not at any time exceed in the whole the assessable value for one year of the premises assessable under this act within the district or part of the district for or in respect of which such money shall be borrowed, and shall (as far as practicable) be borrowed upon the credit of the respective rates applicable to the works, matters, or things in respect of which the money is required; and the money borrowed for the purpose of defraying any costs, charges, or expenses incurred or to be incurred in respect of part of a district only shall be charged (as far as practicable) upon the credit of any separate rates made or to be made for the purposes of such part; and in case any such costs, charges, or expenses shall apply to or be incurred in respect of two or more of such parts, the money borrowed in respect of the same shall be equitably apportioned by the local board upon any rates made or to be made for the purposes of such parts respectively* (a).

*No priority amongst mortgagees.*

Commissioners of public works may make advances to local boards under 5 & 6 Vict. c. 9.

CVIII. And be it enacted, that the commissioners acting in the execution of an act passed in the second session of the fifth year of her Majesty's reign, intituled "An Act to authorise the Advance of Money out of the Consolidated Fund to a limited amount for carrying on Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorising the issue of Exchequer Bills for the like purposes" (b), and in the execution of any of the acts recited in that act, or of any act or acts for amending or continuing the same acts or any of them, may, if they shall think fit, make advances to the local board of health of any district, for the purposes of this act, upon the security of the rates to be levied by such board under this act, and without requiring any further or other security than a mortgage of such rates.

Money may be borrowed at lower rates of interest, to pay off securities bearing a higher rate.

CIX. And be it enacted, that if the local board of health can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, they may, if they shall think fit, so borrow accordingly, in order, with the consent of the mortgagee, to pay off and discharge any of the securities bearing a higher rate of interest, and may charge the rates which they may be autho-

(a) See 21 & 22 Vict. c. 98, s. 57; also 24 & 25 Vict. c. 61, s. 14.
(b) See note, p. 126.

ed to mortgage under this act with payment of the sum so borrowed, 11 & 12 Vict. c. 63.
ether with the interest thereon, in such manner and subject to such
ulations as are herein contained with respect to other monies borrowed
on mortgage.

CX. And be it enacted, that if at the time appointed by any mortgage Power to borrow money to pay off former mortgages.
ed for payment of the principal money secured thereby the local board of
alth are unable to pay off the same, they may, if they shall think fit,
row such sum of money as may be necessary for the purpose of paying
the whole or any part of the said principal monies, and may secure the
payment of the same, and the interest to be paid thereon, in the same
anner in all respects as in the case of monies borrowed for defraying
sts, charges, and expenses incurred by the local board of health in the
ecution of this act.

CXI. And be it enacted, that every mortgage authorized to be made Form of mortgage.
der this act shall be by deed, truly stating the date, consideration, and
e time and place of payment, and shall (in the case of a non-corporate
strict) be sealed with the seal of the local board of health by or on the
rt of whom the same is executed, and be signed by five or more members
ereof, or (in the case of a corporate district) be sealed with the common
al, and may be made according to the form contained in the schedule (B)
this act annexed, or to the like effect; and there shall be kept at the Register of mortgages.
ice of the local board of health a register of the mortgages upon each
e, and within fourteen days after the date of any mortgage an entry
all be made in the register of the number and date thereof, and of the
mes and description of the parties thereto, as stated in the deed; and
ery such register shall be open to public inspection during office hours at
e said office, without fee or reward; and any clerk or other person having
e custody of the same refusing to allow such inspection, shall be liable
a penalty not exceeding five pounds.

CXII. And be it enacted, that any mortgagee or other person entitled to Transfer of mortgages.
y such mortgage may transfer his estate and interest therein to any
her person by deed duly stamped, truly stating its date and the con-
deration for the transfer; and such transfers may be according to the
rm contained in the schedule (C) to this act annexed, or to the like
fect; and there shall be kept at the office of the local board of health a Register of transfers.
gister of the transfers of mortgage charged upon each kind of rate, and
ithin thirty days after the date of such deed of transfer, if executed
ithin the United Kingdom, or within thirty days after its arrival in the
nited Kingdom, if executed elsewhere, the same shall be produced to the
erk, who shall, upon payment of the sum of five shillings, cause an entry
be made in such register of its date, and of the names and description of
e parties thereto, as stated in the transfer; and upon any transfer being
registered, the transferee, his executors, administrators, or assigns, shall
entitled to the full benefit of the original mortgage, and the principal
d interest secured thereby; and every such transferee may in like manner
ansfer his estate and interest in any such mortgage; and no person, except
e person to whom the same shall have been last transferred, his executors,
ministrators, or assigns, shall be entitled to release or discharge any
ch mortgage, or any money secured thereby.

CXIII. *And be it enacted, that the interest secured by any mortgage* *Interest to be paid half-yearly.*
*thorized to be made under this act shall, unless otherwise provided, be*
*id half-yearly; and in order to pay off any monies borrowed and secured*
*any such mortgage the local board of health shall in every year, until* *Mortgage debts to be paid off by means of sinking fund.*
*e same be paid off, appropriate and set apart as a sinking fund such sum*
*, together with the interest from time to time to accrue thereon, will in the*
*riod of thirty years amount to a sum sufficient to repay the monies bor-*
*wed and secured by any such mortgage, and shall from time to time cause*
*ch sinking fund, and the interest thereon, to be invested in the purchase*
*exchequer bills or other government securities, and to be increased by*

11 & 12 Vict. c. 63.

*accumulation in the way of compound interest or otherwise; and whenever the said local board are enabled to pay off one or more of the mortgages charged upon the same property or rate, and are not able to pay off the whole of the mortgages so charged, they shall, in default of arrangement between the local board of health and the mortgagees, decide by lot the order in which the same shall be paid off* (a).

Receiver may be appointed in certain cases.

CXIV. And be it enacted, that if at the expiration of six months from the time when any principal money or interest has become due upon any mortgage of rates made under this act, and after demand in writing, the same be not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver (b) to two justices, who are hereby empowered, after hearing the parties, to appoint in writing under their hands and seals, some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and the costs of collection, are fully paid; and upon such appointment being made, all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them: provided always, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application be made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, monies collectively amounting to that sum.

*Byelaws.*

Byelaws of local board not to be in force till confirmed by secretary of state.

CXV. And be it enacted, that all byelaws made by the local board of health under and for the purposes of this act shall be in writing under their seal, and the signature of any five or more of their number, or (in the case of a corporate district) under the common seal; and the said local board may, by any such byelaws impose upon offenders against the same such reasonable penalties as they shall think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding the sum of forty shillings for each day after written notice of the offence from the said local board; and the said local board may alter or repeal any such byelaws by any subsequent byelaws, sealed and signed, or (in case of a corporate district) sealed, as last aforesaid: provided always, that all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty: provided also, that no such byelaws shall be repugnant to the laws of England or to the provisions of this act, and the same shall not be of any force or effect unless and until the same be submitted to and confirmed by one of her Majesty's principal secretaries of state (c), who is hereby empowered to allow or disallow the same, as he may think proper: provided also, that no such byelaws shall be confirmed unless notice of intention to apply for confirmation of the same shall have been given in one or more of the public newspapers usually circulated within the district to which such byelaws relate one month at least before the making of such application; and for one month at least before any such application a copy of the proposed byelaws shall be kept at the office of the local board of health, and be open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward; and the clerk shall furnish every such ratepayer who shall apply for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words contained in such copy.

Notice of confirmation, &c.

(a) See 21 & 22 Vict. c. 98, s. 57. (b) *Ibid.*, s. 10.
(c) See note, p. 52, *Reg.* v. *Rose.*

11 & 12 VICT. c. 63.

Byelaws to be printed, &c.

*Powers transferred, &c.*

Local board to be surveyors of highways;

but existing surveyors to recover rates in arrear.

Existing liabilities to make sewers, &c., not to be discharged.

General Superintendence.

*Mortgage of rates to be made only with approval of general board.*

Parties aggrieved by proceedings of local board as to recovery of certain expenses may appeal to the *general board*.

XVI. And be it enacted, that all byelaws made by the local board of lth in pursuance of this act shall be printed, and hung up in the office the said local board; and copies thereof shall be delivered to any rate- er of the district to which such byelaws relate, upon his application the same.

XVII. And be it enacted, that the local board of health within the its of their district shall, exclusively of any other person whatsoever, ecute the office of and be surveyor of highways (*a*), and have all such wers, authorities, duties, and liabilities as any surveyor of highways in gland is now or may hereafter be invested with or be liable to by virtue his office by the laws in force for the time being, except in so far as ch powers, duties, or authorities are or may be inconsistent with the pro- ions of this act; and the inhabitants of any district shall not in respect any property situate therein be liable to the payment of highway rate other payment, not being a toll, in respect of making or repairing roads highways within any parish, township, or place, or part of any parish, wnship, or place, situate beyond the limits of such district (*a*): provided ways, that the several persons who at the time when this act is applied any district are surveyors of highways within the same district may over any highway rate made in respect of the said district, and then maining unpaid, in the same manner as if this act had not been passed; d the money so recovered shall be applied, in the first place, in reim- rsing themselves any expenses incurred by them as such surveyors, and discharging any debts legally owing by them on account of the highways thin their jurisdiction; and the surplus (if any) shall be paid by them the treasurer, and carried to the district fund account mentioned in this t (*a*): provided also, that neither the allowance by justices, nor the gnature by the local board of health, shall be necessary in the case of y rate made by the local board of health under this act (*a*).

XVIII. And be it enacted, that, notwithstanding the application of is act to any district, the liability of any person whomsoever to defray or ntribute towards the expense of making, completing, altering, amending, maintaining any sewer, or any walls or works for protecting the land ainst the force or encroachments of the sea, or of paving or flagging or tting in order any street or part thereof within the district, shall, if in- rred previously to the time when this act is so applied, continue, and e same may be enforced, as if this act had not been passed, and the rates be levied under this act shall be made only for purposes to which such bility does not extend.

XIX. *And be it enacted, that it shall not be lawful for the local board health to borrow or take up at interest any sum or sums of money upon credit of any rates authorized to be made or collected under this act, thout the previous consent of the general board of health* (*b*).

XX. And be it enacted, that if in any case in which the local board s empowered to recover any expenses incurred by them in a summary anner, or to declare such expenses to be private improvement expenses, y person shall deem himself to be aggrieved by the decision of the said al board thereupon, he may, within seven days after notice of such cision, address a memorial to the said *general board* (*c*), stating the ounds of his complaint; and the said *general board* may make such order the matter as to them may seem equitable, and the order so made shall binding and conclusive upon the said local board; and if the said local ard shall have proceeded to recover such expenses in a summary manner, e said *general board* may, if they shall think fit, direct the said local

(*a*) See 21 & 22 Vict. c. 98, s. 37. See also note, p. 71.
(*b*) See *ibid.*, s. 8.
(*c*) For the purposes of this section the secretary of state is substituted for "general board." See *ibid.*, s. 65.

11 & 12 Vict. c. 63.

board to pay to the person so proceeded against such sum as consider to be a just compensation for the loss, damage, or thereby sustained by him.

Superintending inspectors may summon witnesses, call for plans, rates, &c.

CXXI. And be it enacted, that during any inquiry by a superi inspector (a) under this act he may and he is hereby empowered t before him any persons whomsoever, and to examine them upo otherwise touching any matter relating to the purposes of the inc he may by any such summons require any parochial officer, or of or acting under any corporation, guardians, or directors of the any commissioner, trustee, officer, or person acting under any l parliament in force within the district or place to which any su may relate, to produce before him any surveys, plans, sections, r or other like documents which may by reason of their office b custody or control touching any matter relating to the purpose inquiry, and such inspector may examine, inspect, or take cop such books, surveys, plans, sections, and documents, or any of part thereof; and whosoever wilfully disobeys any such summon vents any such inspector from examining, inspecting, or taking last aforesaid, or refuses to answer any question put to him b spector for the purposes of the said inquiry, shall be liable to a p exceeding five pounds: provided always, that no person shall b to attend in obedience to any such summons unless the reasonab of his attendance shall have been paid or tendered to him; and shall be required in any case, in obedience to any such summons more than ten miles from his place of abode.

*As to audit of accounts.*

*CXXII. And be it enacted, that the accounts of the receipts an ture of the local board of health shall be audited and examin every year at the least, at such time or times as shall be appointe local board, in case of a corporate district, by the auditors c porate borough, whereof the whole or part is within such distri case of a district exclusively consisting of the whole or part of tw corporate boroughs, or of one or more of such boroughs, and also any such borough or boroughs, by such two of the auditors for the of the corporate boroughs respectively whereof the whole or part such district as shall from time to time be appointed by the loca health, and in case of any other district as soon as can be after t fifth day of March in every year, by the auditor of accounts rela relief of the poor for the district for the audit of such accounts, parish or union in which such district under this act is compr any district under this act be partly situate in two or more parish or districts for the audit of accounts, by such one of the auditc time being of the parishes, unions, or districts for the audit o (whereof the whole or part is within such district under this ac from time to time be appointed by the local board of health; an purposes of any audit and examination of accounts under thi such auditors or auditor may, by summons in writing, require t tion before him of all books, deeds, contracts, accounts, voucher other documents and papers which they or he may deem necessary require any person holding or accountable for any such books, tracts, accounts, vouchers, documents, or papers to appear befo him at any such audit and examination, or adjournment there make and sign a declaration with respect to the same; and if person neglect or refuse so to do, or to produce any such books, tracts, accounts, vouchers, documents, or papers, or to make or declaration, he shall be liable for every neglect or refusal to a forty shillings, and if he falsely or corruptly make or sign any ration, knowing the same to be untrue in any material particula*

*Power to auditor to require production of books, &c.*

*Penalty on persons for neglect.*

(a) See 21 & 22 Vict. c. 98, s. 80.

*liable to the penalties inflicted upon persons guilty of wilful and corrupt jury; and all accounts certified by the auditors or auditor acting under act shall be final and conclusive to all intents and purposes; and such ditors or auditor shall in respect of each audit be paid by the local board health, out of the general district rates levied under this act, such reason- le remuneration as they shall from time to time by order in writing ermine and appoint: provided always, that before each audit and mination of accounts under this act the clerk shall give ten days' notice the time and place at which the same will be made, by advertisement in ne one or more of the public newspapers usually circulated within the trict for which the audit and examination will be made; and a copy of accounts to be audited and examined shall be deposited in the office of local board of health, and be open, during office hours thereat, to the spection of all persons interested, for seven days before the audit and ex- mination; and all such persons shall be at liberty to take copies of or tracts from the same without fee or reward; and within fourteen days er the audit and examination shall have been completed, the auditors or ditor shall report upon the accounts audited and examined, and shall liver such report to the clerk, who shall cause the same to be deposited in office of the local board of health, and to be published in some one or re of the public newspapers usually circulated in the district to which it ates (a).*

*Accounts previous to audit to be deposited, and open to inspection, &c.*

CXXIII. And be it enacted, that in case of dispute as to the amount of y compensation to be made under the provisions of this act (except ere the mode of determining the same is specially provided for), and in e of any matter which by this act is authorised or directed to be settled arbitration, then, unless both parties concur in the appointment of a gle arbitrator, each party, on the request of the other, shall appoint an itrator, to whom the matter shall be referred (*b*); and every such pointment when made on the behalf of the local board of health shall (in case of a noncorporate district) be under their seal and the hands of any or more of their number, or under the common seal in case of a cor- ate district, and on the behalf of any other party, under his hand, or if h party be a corporation aggregate under the common seal thereof; and h appointment shall be delivered to the arbitrators, and shall be deemed ubmission to arbitration, by the parties making the same; and after making of any such appointment the same shall not be revoked without consent of both parties, nor shall the death of either party operate as a ocation; and if for the space of fourteen days after any such matter ll have arisen, and notice in writing by one party who has himself duly ointed an arbitrator to the other party, stating the matter to be re- ed, and accompanied by a copy of such appointment, the party to whom ice is given fail to appoint an arbitrator, the arbitrator appointed by party giving the notice shall be deemed to be appointed by and shall on behalf of both parties; and the award of any arbitrator or arbi- ors appointed in pursuance of this act shall be binding, final, and con- ive upon all persons, and to all intents and purposes whatsoever.

*Arbitration.*

Mode of referring to arbitration.

CXXIV. And be it enacted, that if before the determination of any ter so referred any arbitrator die, or refuse or become incapable to act, party by whom such arbitrator was appointed may appoint in writing ther person in his stead; and if he fail so to do for the space of seven after notice in writing from the other party in that behalf the remain- arbitrator may proceed *ex parte;* and every arbitrator so appointed ll have the same powers and authorities as were vested in the arbitrator hose stead the appointment is made; and in case a single arbitrator or become incapable to act, before the making of his award, or fail to

Death, &c., of one of several arbitrators;

of single arbitrator.

(a) See 21 & 22 Vict. c. 98, s. 60.
(b) *Ibid.* s. 64, where sum in dispute under 20*l.* See also note (*b*), p. 121.

11 & 12 Vict. c. 63.

make his award within twenty-one days after his appointment, or within such extended time, if any, as shall have been duly appointed by him for that purpose, the matters referred to him shall be again referred to arbitration under the provisions of this act, as if no former reference had been made.

Appointment of umpire by the parties; by quarter sessions.

CXXV. And be it enacted, that in case there be more than one arbitrator the arbitrators shall, before they enter upon the reference, appoint by writing under their hands an umpire, and if the person appointed to be umpire die, or become incapable to act, the arbitrator shall forthwith appoint another person in his stead; and in case the arbitrators neglect or refuse to appoint an umpire for seven days after being requested so to do by any party to the arbitration, the court of general or quarter sessions shall, on the application of any such party, appoint an umpire; and the award of the umpire shall be binding, final, and conclusive upon all persons and to all intents and purposes whatsoever; and in case the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time, if any, as shall have been duly appointed by them for that purpose, the matters referred shall be determined by the umpire; and the provisions of this act with respect to the time for making an award, and with respect to extending to the same in the case of a single arbitrator, shall apply to an umpirage (a).

Time within which award must be made.

CXXVI. Provided always, and be it enacted, that the time for making an award under this act shall not be extended beyond the period of three months from the date of the submission or from the day on which the umpire shall have been appointed (as the case may be).

Power to arbitrator to require production of documents.

As to costs of reference.

CXXVII. And be it enacted, that any arbitrator, arbitrators, or umpire, appointed by virtue of this act, may require the production of such documents in the possession or power of either party as they or he may think necessary for determining the matters referred, and may examine the parties or their witnesses on oath; and the costs of and consequent upon the reference shall be in the discretion of the arbitrator or arbitrators, or of the umpire (in case the matters referred are determined by an umpire under the power hereinbefore contained in that behalf); and any submission to arbitration under the provisions of this act may be made a rule of any of the superior courts, on the application of any party thereto.

Submission may be made a rule of court.

Declaration to be made by arbitrator and umpire.

CXXVIII. And be it enacted, that before any arbitrator or umpire shall enter upon any such reference as aforesaid he shall make and subscribe the following declaration before a justice of the peace (that is to say),

"I, *A.B.*, do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the public health act, 1848, *A.B.*"

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire shall wilfully act contrary to such declaration he shall be guilty of a misdemeanor.

*Legal Proceedings.*

Recovery of damages, &c.

CXXIX. And be it enacted, that in all cases in which the amount of any damages, costs, or expenses is by this act directed to be ascertained or recovered in a summary manner the same may be ascertained by and recovered before two justices, together with such costs of the proceedings as the justices may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made the same may be levied by distress and sale of his goods and chattels, by warrant under the hands and seals of the justices making the adjudication; and any penalty imposed by or under the authority of this act, or any byelaw made under this act, the recovery whereof is not otherwise expressly provided for, may, upon proof on oath of the offence in respect of which the penalty is alleged to have been incurred, be recovered before two justices, together with such costs of the proceedings as they may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made the same may be levied by distress and sale of his goods and chattels, by

(a) See note (*b*), p. 121.

warrant under the hands and seals of the justices making the adjudication; and such justices or either of them may order that any offender convicted as last aforesaid be detained and kept in safe custody until return can be conveniently made to the last-mentioned warrant, unless he give sufficient security, by way of recognisance or otherwise, for his appearance on the day appointed by the return, such day not being more than eight days from the time of taking the security; and if before issuing such warrant, or upon the return thereof, it appear to the satisfaction of the last-mentioned justices that no sufficient distress can be had within their jurisdiction, they may, by warrant under their hands and seals, cause the offender to be committed to gaol, there to remain, without bail, for any term not exceeding three months, unless such penalty and costs be sooner paid. 11 & 12 Vict. c. 63.

CXXX. And be it enacted, that the justices before whom any person is convicted of any offence against the provisions of this act may cause the conviction to be drawn up according to the form and directions contained in the schedule (E.) annexed to this act, or to the like effect; and any conviction so drawn up shall be valid and effectual to all intents and purposes (*a*). Form of conviction.

CXXXI. And be it enacted, that in proceeding before any justice or justices under the provisions of this act, in any case in which the mode of proceeding is not specially prescribed, any one justice may summon the party charged to appear before the justice or justices by whom the matter is to be determined at a time and place to be named; and upon the appearance of the party charged, or in his absence upon proof of service of the summons upon him personally, or by leaving a copy thereof at his last known place of abode or business, the last-mentioned justice or justices may hear and determine the matter, and for that purpose examine the parties or any of them, and their witnesses, on oath; and the costs of all such proceedings shall be in the discretion of the last-mentioned justice or justices; and where in this act any sum of money whatsoever is directed to be levied by distress and sale of the goods and chattels of any party, the overplus arising from such sale shall, after satisfying such sum, and the costs and expenses of the distress and sale, be returned to him, on demand; and no distress levied under the authority of this act shall be unlawful, nor shall any party making the same be a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall he be a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction in an action upon the case. Mode of proceeding before justices. Distress how to be levied; not unlawful for want of form.

CXXXII. And be it enacted, that justices of the peace, being also members of any local board of health, may, if acting in petty sessions, notwithstanding their being such members, exercise the jurisdiction vested in them as such justices under this act. Justices, though members of local board, may act under this act.

CXXXIII. And be it enacted, that no proceedings for the recovery of any penalty incurred under the provisions of this act shall be had or taken by any person other than by a party grieved (*b*), or the local board of health in whose district the offence is committed, or by the churchwardens and overseers of the poor (where any such penalty is directed to be paid to the churchwardens and overseers of the poor), without the consent in writing of her Majesty's attorney general first had and obtained; and that no such penalty shall be recovered unless proceedings for the recovery thereof shall have been commenced within six calendar months after the commission or occurrence of the offence upon which the penalty attaches; and if the application of the penalty be not otherwise provided for, one-half thereof shall go to the informer, and the remainder to the local board of health of the district in which the offence was com- Common informers not to sue without consent of attorney general. Proceedings for penalties to be taken within six months. Application of penalties.

(*a*) See note (*c*), p. 121. (*b*) See note (*c*), p. 26.

11 & 12 Vict. c. 63.

mitted: provided always, that if the said local board be the informer th shall be entitled to the whole of the penalty recovered; and all penalt or sums recovered on account of any penalty by them shall be paid over the treasurer, and shall by him be placed to the district fund accou mentioned in this act.

Liability to penalty not to relieve from other liabilities.

CXXXIV. And be it declared and enacted, that, notwithstanding t liability of any person to any penalty under the provisions of this act, shall not be relieved from any other liability to which he would have be subject if this act had not been passed.

Appeal to quarter sessions.

CXXXV. And be it enacted, that any person who shall think hims aggrieved by any rate made under the provisions of this act, or by a order, conviction, judgment, or determination of or by any matter thing done by any justice or justices, in any case in which the penal imposed or the sum adjudged shall exceed the sum of twenty shilling may appeal to the court of general or quarter sessions (*a*) holden next aft the making of the rate objected to, or accrual of the cause of co plaint; but the appellant shall not be heard in support of the appe unless within fourteen days after the making and publication of the ra appealed against, or accrual of the cause of complaint, he give to t local board of health or justice or justices by whose act he may thi himself aggrieved notice in writing stating his intention to bring su appeal, together with a statement in writing of the grounds of appeal; a the said court, upon hearing and finally determining the matter of th appeal, shall and may, according to its discretion, award such costs to t party appealing or appealed against as they shall think proper, and i determination in or concerning the premises shall be conclusive a binding on all persons to all intents and purposes whatsoever: pr vided always, that if there be not time to give such notice and enter in such recognisance as aforesaid before the sessions holden as last aforesai then such appeal may be made to, and such notice, statement, and recog sance be given and entered into for, the next sessions at which the appe can be heard: provided also, that on the hearing of the appeal no groun of appeal shall be gone into or entertained other than those set forth such statement as aforesaid (*b*).

Power of sessions upon appeals against rates.

CXXXVI. And be it enacted, that the said court of general or quart sessions shall upon appeals under this act against any rate have the sa power to amend or quash any rate or assessment, and to award co between the parties to the appeal, as is or may by law be vested in a court of general or quarter sessions with respect to amending or quash any rate or assessment, or awarding costs, upon appeals with respect rates for the relief of the poor; and the costs awarded by the said co under this act may be recovered in the same manner in all respects costs awarded upon the last-mentioned appeals: provided always, th notwithstanding the quashing of any rate appealed against, all mon charged by such rate shall, if the court before whom the appeal heard think fit so to order, be levied as if no appeal had been ma and such monies, when paid, shall be taken as payment on account the next effective rate for the purposes in respect of which the quas rate was made.

No rate or proceeding to be quashed for want of form, &c.

CXXXVII. And be it enacted, that no rate, nor any proceeding to had touching the conviction of any offender against this act, nor any ord award, or other matter or thing whatsoever made, done or transac in or relating to the execution of this act, shall be vacated, quash or set aside for want of form, or be removed or removable by certio or other writ or process whatsoever into any of the superior courts.

(*a*) See 21 & 22 Vict. c. 98, s. 75, and 8 & 9 Vict. c. 18, s. 14. *Ricardo* v. *Mai head L. B.*, 2 H. & N. 257.

(*b*) See 21 & 22 Vict. c. 98, s. 54.

11 & 12 Vict. c. 63.

CXXXVIII. And be it enacted, that the local board of health of any noncorporate district may sue and be sued in the name of the clerk for the time being for or concerning any contract, matter, or thing whatsoever relating to any property, works or things vested or to become vested in them by reason of the provisions of this act, or relating to any matter or thing whatsoever entered into or done, or intended to be entered into or done, by them, under the provisions of this act; and in any action of ejectment brought or prosecuted by such local board it shall be sufficient to lay the demise in the name of the said clerk; and in proceedings by or on the part of such local board against any person for stealing or wilfully injuring or otherwise improperly dealing with any property, works, or things belonging to them or under their management, it shall be sufficient to state generally that the property or thing in respect of which the proceeding is instituted is the property of the said clerk, and all legal proceedings by, on the part of, or against such local board, under this act may be preferred, instituted, and carried on in his name; and no proceedings whatever shall abate or be discontinued by the death, resignation, or removal of the clerk, or by reason of any change or vacancy in such local board by death, resignation, or otherwise: provided always, that the clerk in whose name any such action or suit, complaint, information, or proceeding, may be brought, preferred, instituted, or defended as aforesaid, shall be fully reimbursed, out of the general district rates to be levied under this act, all such costs, charges, damages, and expenses as he shall or may be or become liable to pay, sustain, or be put unto by reason of his name being so used.

Proceedings in case of noncorporate districts.

Actions, &c. in name of clerk.

Mode of describing property of local board.

Actions, &c., not to abate.

Clerk to be reimbursed expenses.

CXXXIX. And be it enacted, that no writ or process shall be sued out against or served upon any superintending inspector, or any officer or person acting in his aid, or under the direction of the general board of health, nor against the local board of health, or any member thereof, or the officer of health, clerk, surveyor, inspector of nuisances, or other officer or person whomsoever acting under the direction of the said local board, for anything done or intended to be done under the provisions of this act, until the expiration of one month next after notice in writing shall have been delivered to him, or left at their or his office or usual place of abode, clearly and explicitly stating the cause of action (*a*), and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the last-mentioned notice; and unless such notice be proved the jury shall find for the defendant; and every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards, and shall be laid and tried in the county or place where the cause of action occurred, and not elsewhere (*b*); and the defendant shall be at liberty to plead the general issue, and give this act and all special matter in evidence thereunder; and any person to whom any such notice of action is given as aforesaid may tender amends to the plaintiff, his attorney or agent, at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar, and (by leave of the court) with the general issue or other plea or pleas; and if upon issue joined upon any plea pleaded to the whole action the jury find generally for the defendant, or if the plaintiff be nonsuited or discontinue, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case amends have not been tendered as aforesaid, or in case the amends tendered be insufficient, the defendant may, by leave of

Notice of action.

Limitation of actions.

Venue.

General issue.

Tender of amends, &c.

Money may be paid into court.

(*a*) See *Newton* v. *Ellis*, 5 E. & B. 115, 24 L. J., Q. B. 337; *Mason* v. *Birkenhead Commissioners*, 4 H. & N. 72.

(*b*) See, however, *Itchin Co.* v. *Southampton*, 27 L. J., Q. B. 128.

11 & 12 Vict. c. 63.

the court, at any time before trial, pay into court, under plea, such sum of money as he may think proper, and (by the like leave) may plead the general issue or other plea or pleas, any rule of court or practice to the contrary notwithstanding.

Persons acting in execution of act not to be personally liable.

CXL. And be it enacted, that no matter or thing done or contract entered into by the local board of health, nor any matter or thing done by any superintending inspector, or any member of the said local board, or by the officer of health, clerk, surveyor, inspector of nuisances, or other officer or person whomsoever acting under the direction of the said local board, shall, if the matter or thing were done or the contract were entered into *bonâ fide* for the purpose of executing this act, subject them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by any such local board, member, officer of health, clerk, surveyor, inspector of nuisances, or other officer or person acting as last aforesaid, shall be borne and repaid out of the general district rates levied under the authority of this act.

Miscellaneous.

*Orders in council and provisional orders may be amended and districts extended.*

CXLI. *And be it enacted, that her Majesty may from time to time alter or amend any order in council made under or in pursuance of the provisions of this act, by any subsequent order in council, in such manner as her Majesty, by and with the advice of her privy council, may think proper; and if at any time it appear to the general board of health that any provisional order made by them under this act should be altered or amended, or that the boundaries of any district should be altered or extended, they shall make a provisional order under their hands and seal of office accordingly: provided always, that no order in council or provisional order as last aforesaid shall be made until such proceedings have been taken in and with respect to the district and parts to be affected thereby as are hereinbefore required to be taken previously to the original constitution of a district under this act; and no such provisional order shall be of any force or effect without the previous authority of parliament, as hereinbefore prescribed with respect to provisional orders made under this act* (a).

Publication of orders in council, &c.

CXLII. And be it enacted, that all orders in council under this act shall take effect and be in full force and operation within the district to which they apply from and after a day which shall be specified in such orders for that purpose; and a copy of every such order shall be published in the London Gazette, and shall be laid before parliament in the month of January in every year if parliament be then sitting, or if parliament be not then sitting then within one week after the next meeting thereof; and whenever any provisional order *of the general board of health* is submitted to parliament for confirmation, *the said general board* shall present to both houses of parliament a copy of all reports of any superintending inspector with respect to the parts to which the provisional order relates, and of all memorials forwarded *to the said general board* with respect to such reports.

Reports of superintending inspectors, &c., to be laid before parliament.

Entry upon lands for the purposes of this act.

CXLIII. And be it enacted, that in case it shall become necessary to enter, examine, or lay open any lands or premises for the purpose of making plans, surveying, measuring, taking levels, examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of such lands or premises shall refuse to permit the same to be entered upon, examined, or laid open for the purposes aforesaid or any of them, the local board of health may, upon notice to such owner or occupier, apply to two justices for an order authorising the members of such local board, and the superintending inspector, surveyor, and inspector of nuisances, or any of them, to enter, examine, and lay open the said lands and premises for the purposes aforesaid or any of them, and if no sufficient cause shall be shown against

(a) See 21 & 22 Vict. c. 98, s. 77.

the same the said justices may make an order authorising the same accordingly, and thereupon any superintending inspector, the local board of health, or any member thereof, the surveyor, and inspector of nuisances, and any person authorised by any such superintending inspector, local board, surveyor, or inspector of nuisances, may, at all reasonable times between the hours of ten in the forenoon and four in the afternoon, enter, examine, or lay open the lands or premises mentioned in such order, for such of the said purposes as shall be specified in the said order, without being subject to any action or molestation for so doing: provided always, that, except in case of emergency, no entry shall be made or works commenced under the powers of this enactment unless twenty-four hours at the least previously thereto notice of the intended entry, and of the object thereof, be given to the occupier of the premises intended to be entered. 11 & 12 Vict. c. 63.

Compensation in case of damage by local board.

CXLIV. And be it enacted, that full compensation shall be made, out of the general or special district rates to be levied under this act, to all persons sustaining any damage by reason of the exercise of any of the powers of this act; and in case of dispute as to amount the same shall be settled by arbitration in the manner provided by this act, or if the compensation claimed do not exceed the sum of twenty pounds, the same may be ascertained by and recovered before justices in a summary manner.

*Sewers, &c., of commissioners of sewers, private watercourses, &c., not to be used without consent.*

CXLV. *And be it declared and enacted, that nothing in this act shall be construed to authorise the local board of health to use, injure, or interfere with any sluices, floodgates, sewers, groynes, sea defences, or other works already or hereafter made under the authority of any commissioners of sewers appointed by the crown, or any sewers or other works already or hereafter made and used for the purpose of draining, preserving, or improving land under any local or private act of parliament, or for the purpose of irrigating lands, or to use, injure, or interfere with any watercourse, stream, river, dock, basin, wharf, quay, or towing path in which the owner or occupier of any lands, mills, mines, or machinery, or the proprietors or undertakers of any canal or navigation, shall or may be interested, without consent in writing first had and obtained; and that nothing herein contained shall prejudice or affect the rights, privileges, powers, or authorities given or reserved to any person under any local or private act of parliament for the drainage, preservation, or improvement of land, or for or in respect of any mills, mines, machinery, canal, or navigation as last aforesaid* (a).

Local board may allow owners time for repayment of expenses.

CXLVI. And be it enacted, that in any case in which the local board of health may have incurred expenses for the repayment whereof the owner of the premises (b) for or in respect of which the same are incurred is made liable by this act, the said local board may, if they think fit, allow such owner time for repayment, and receive the same by such annual instalments, not being less than one thirtieth part of the entire sum, together with interest at the rate of five pounds in the hundred upon the sum from time to time remaining unpaid, as they, under the circumstances of each case, may consider to be just; but although time for repayment be allowed as last aforesaid, the sum due, or so much thereof as may be unpaid, shall from time to time, in case of default in payment at the times respectively appointed for payment, be recoverable in like manner in all respects as the entire sum might have been recovered if time for repayment had not been allowed.

False evidence punishable as perjury.

CXLVII. And be it enacted, that every person who upon any examination on oath under the provisions of this act shall wilfully and corruptly give false evidence shall be liable to the penalties inflicted upon persons guilty of wilful and corrupt perjury.

(a) See 21 & 22 Vict. c. 98, s. 68. (b) *Ibid.* s. 62.

11 & 12 Vict. c. 63.

Penalty for obstructing officers, defacing boards, &c.; upon occupiers preventing execution of works.

CXLVIII. And be it enacted, that whosoever wilfully obstructs any superintending inspector, or any member of the local board of health, or any officer or person duly employed in the execution of this act, or destroys, pulls down, injures, or defaces any board upon which any bylaw, notice, or other matter is inscribed, shall, if the same were put up by authority of the local (*a*) *or general* board of health, be liable for every such offence to a penalty not exceeding five pounds; and if the occupier of any premises prevent the owner thereof from obeying or carrying into effect the provisions of this act, any justice to whom application is made in this behalf shall, by order in writing (which may be according to the form contained in the schedule (F.) to this act annexed, or to the like effect,) require such occupier to permit the execution of the works required to be executed, provided that the same appear to such justice to be such as are necessary for the purpose of obeying or carrying into effect the provisions of this act; and if within a reasonable time after the making of such order the occupier against whom it is made refuse to comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such refusal; and if the occupier of any premises, when requested by or on behalf of the local board of health to state the name of the owner of the premises occupied by him, shall refuse or wilfully omit to disclose or wilfully mis-state the same, any justice may, on oath made before him of such request, and refusal, omission, or mis-statement, summon the party to appear before him or some other justice at a time and place to be appointed in such summons, and if after being so summoned he neglect or refuse to attend at the time and place so appointed, or if he do not show good cause for such refusal, or if such wilful omission or mis-statement be proved, the justice before whom the party is so summoned may impose upon the offender a penalty not exceeding five pounds.

Occupiers to disclose owner's name.

Consents of *board of health* and local board to be in writing.

CXLIX. And be it enacted, that whenever the consent, sanction, *or approval or authority of the general board of health is required by the provisions of this act, the same shall be in writing under their seal and the hands of two or more members thereof; and whenever the consent, sanction,* approval, or authority of the local board of health is so required the same shall (in the case of a noncorporate district) be in writing under their seal and the hands of five or more of them, or (in case of a corporate district) under their common seal.

Service of notice upon local board; upon owners and occupiers.

CL. And be it enacted, that any summons, notice, writ, or proceeding of any kind whatsoever to be served upon the local board of health may be so served by being left at or sent through any post office, directed to the local board of health, at their office, or by being delivered there to the clerk personally; and in all cases in which any notice is by this act required to be given to the owner or occupier of any premises it shall be sufficient to address the notice to them by the description of the "owner" or "occupier" (as the case may require) of the premises (naming them) in respect of which the notice is given, without further name or description; and the notice shall be served upon them or one of them, as the case may require, either personally or by delivering the same to some inmate of his or their place of abode, (*b*) or in the case of the occupier (and also in case of the owner, if his place of abode be unknown,) upon any inmate of the last-mentioned premises, or if such premises be unoccupied, then, in case the notice is required to be served upon the occupier, (and in case of the owner also, if his residence be unknown,) it shall be sufficient to fix the notice upon some conspicuous part of the premises: provided always, in the case of notices to the owner, that, although his place of abode be known to the local board of health, yet if it be not within the

(*a*) See 21 & 22 Vict. c. 98, s. 66.
(*b*) See note (*c*), p. 122.

heir district it shall be sufficient for them to transmit any notice, 11 & 12 Vict. c. 63.
o him by name, through the post.

And be it enacted, that no advertisement inserted or caused to be Exemptions from stamp duty.
y the *general or* local board of health in the London Gazette or
or publication under this act, or for the purpose of carrying
into effect, nor any deed, award, submission, instrument,
agreement, or writing, made or executed by the said *general*
oard, their officers or servants, under or for the purposes of
nor any appointment by the general or local board of any officer
n under this act, shall be chargeable with any stamp duty
; and in case any vault, cellar, or underground room of any Exemption from window duty in certain cases.
taining, at the time of the passing of this act, seven windows or
y, shall have been let or occupied separately as a dwelling before
ig of this act, without any external window, or such an external
s is required by the provisions of this act with respect to the
d occupation of vaults, cellars, and underground rooms, and it
me necessary, by reason of such provisions, to make such an external
s is required thereby, in order that such vault, cellar, or under-
om may lawfully be let or occupied separately as a dwelling, the
nly of such external window shall not render any person liable
of such house to the duties payable for a house having eight
or lights, anything in any act of parliament to the contrary
nding.

And be it enacted, that this act may be amended or repealed Amendment of act, &c.
; to be passed during this present session of parliament.

SCHEDULES to which the foregoing act refers.

SCHEDULE (A.)

*Form of Voting Paper.*

| ber. | Name and Address of Voter. | Number of Votes. | |
|---|---|---|---|
| | | As Owner. | As Ratepayer. |
| | | | |

*Directions to the Voter.*

*er must write his initials against the name of every person for otes, and must sign this paper.*

*oter cannot write he must affix his mark, but such mark must be a witness, and such witness must write the initials of the voter e name of every person for whom the voter intends to vote.*

*oxy vote he must in like manner write his initials, sign his own*

11 & 12 VICT. c. 63.

*name, and state in writing the name of the corporation or company for whom he is proxy.*

| Initials of the Voter against the Names of the Persons for whom he intends to vote. | Names of the Persons nominated. | Residence of the Persons nominated. | Quality or Calling of the Persons nominated. | Names of the Nominators. | Address of the Nominators. |
|---|---|---|---|---|---|
| | | | | | |

I vote for the persons in the above list against whose names my initials are placed

Signed

*or* the mark of

Witness to the mark.

*or* proxy for

## SCHEDULE (B.)

### *Form of Mortgage of Rates.*

BY virtue of the Public Health Act, 1848, the local board of health for the district of in consideration of the sum of paid to the treasurer of the said district by *A.B.* of for the purposes of the said act, do grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the rates arising or accruing by virtue of the said act from [*the rates mortgaged*] as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, to hold to the said *A.B.*, his executors, administrators and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied: and it is hereby declared, that the said principal sum shall be repaid on the day of at [*place of payment*]. Dated this day of . one thousand eight hundred and

[*In case of a noncorporate district, to be signed by five members at least of the local board of health, and sealed with their seal: in case of a corporate district, to be sealed with the common seal.*]

## SCHEDULE (C.)

### *Form of Transfer of Mortgage.*

I *A.B.* of in consideration of the sum of paid to me by *C.D.* of do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain mortgage bearing date the day of and made by the local board of health for the district of for securing the sum of and interest thereon at per centum per annum [*or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security*], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and

*A.B.* (L.S.)

## SCHEDULE (D.)

11 & 12 Vict c. 63.

*Form of Distress Warrant.*

To *A.B.*, collector of rates, and to all constables and peace officers.

nty of
borough, &c.,
to wit.

WHEREAS complaint hath been duly made by *A.B.*, one of the collectors for the district of under and by virtue of the Public Health Act, 8, that *C.D.* of, &c. hath not paid and hath refused to pay the sum duly assessed upon him in and by a certain rate bearing date on about the day of in the year of our Lord one sand eight hundred and although the same hath been r demanded of him: and whereas it appears to me, *E.F.* esquire, one ier Majesty's justices of the peace in and for the said county [*or* ugh, &c.], as well upon the oath of the said *A.B.* as otherwise, that said sum of hath been duly demanded in writing by him the said *C.D.*, and that the said hath refused to pay the for the space of fourteen days after such demand made, and doth se to pay the same: and whereas the said *C.D.* hath been duly sum- ed to appear before me to show cause why the said sum should not be by him, and not having shown to me any sufficient cause why the should not be paid: these are therefore, in her Majesty's name, to nand you to levy the said sum of and also the sum of ost of proceeding to obtain this warrant, by distress and sale of the s and chattels of the said *C.D.*, and your reasonable charges of taking, ing, and selling the said distress, rendering to him the overplus (if , on demand; and if sufficient distress cannot be found of the goods chattels of the said *C.D.*, that then you certify the same to me, her with this warrant, to the end that such further proceedings may ıd therein as to the law doth appertain.

ven under my hand and seal, the day of in the of our Lord

(Signed) *E.F.* (L.S.)

## SCHEDULE (E.)

*Form of Conviction.*

ity of
borough, &c.
to wit.]

BE it remembered, that on the day of in year of our Lord *A.B.* is convicted before me [*or* us] *or* two] of her Majesty's justices of the peace in and for the county [*or* ugh, &c.] of [*here describe the offence generally, and the time place when and where committed, in the words of this act or as near unto as may be,*] contrary to the Public Health Act, 1848; and I [*or* lo adjudge that the said *A.B.* hath forfeited for his said offence the of [*amount of penalty adjudged*], and that he do pay to *C.D.* urther sum of as and for his costs in this behalf.

ven under my hand and seal [*or* our hands and seals], the day and first above written.

(Signed) (L.S.)
(L.S.)

## SCHEDULE (F.)

*Form of Order to permit Execution of Works by Owners.*

ty of
borough, &c.]
to wit.

WHEREAS complaint hath been made to me, *E.F.* esquire, one of her Majesty's justices of the peace in and for the county [*or* borough, &c.], of *.B.*, owner, within the meaning of the Public Health Act, 1848, of in premises, to wit, a house [*as the case may be*] situate in

11 & 12 Vict. c. 63.

street [*as the case may be*] in the parish of in the said county [*or* borough, *&c.*], that *C.D.*, the occupier of the said premises, doth prevent the said *A.B.* from obeying and carrying into effect the provisions of the said act in this, to wit, that he the said *C.D.* doth prevent the said *A.B.* from [*here describe the works generally, according to circumstances, for instance, thus:* constructing and laying down, in connexion with the said house, a covered drain, so as to communicate with a [sewer *or* drain] of the local board of health of the district of *or* a sewer, *&c.* which the local board of health of the district of are entitled to use, *as the case may require*], such sewer being within one hundred feet of the said house]: and whereas the said *C.D.*, having been duly summoned to answer the said complaint, and not having shown sufficient cause against the same, and it appearing to me that the said works are necessary for the purpose of enabling the said *A.B.* to obey and carry into effect the provisions of the said act, I do hereby order that the said *C.D.* do permit the said *A.B.* to execute the same in the manner required by the said act.

Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and

*E.F.* (L.S.)

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## 11 & 12 Vict. c. 105.

11 & 12 Vict. c. 105.

***An Act to prohibit the Importation of Sheep, Cattle, or other Animals, for the Purpose of preventing the Introduction of contagious or infectious Disorders*** (*a*).

[4th September, 1848.]

WHEREAS it is expedient, in order to prevent the introduction of contagious or infectious disorders among sheep, cattle, horses, and other animals, that power should be given to her Majesty in council to take such measures as may appear to be necessary for preventing or regulating the importation of animals from parts beyond the seas where such infectious or contagious disorders prevail: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for her Majesty, from time to time, by order in council, to prohibit the importation or introduction into the United Kingdom, or into any particular port or ports thereof, of cattle, sheep, horses, or other animals, either generally or from any place or places that may be named in such order, for such period or periods as she may deem to be necessary, for the purpose of preventing the introduction of any infectious or contagious disorder among the sheep, cattle, horses, or other animals in this country.

Power to prohibit, by order in council, the importation of sheep, cattle, &c., in order to prevent contagion.

II. And be it enacted, that it shall be lawful for her Majesty from time to time, by order in council, to make such regulations for subjecting sheep, cattle, horses, or other animals to quarantine, or for causing the same to be destroyed upon their arrival in this country, or for destroying any hay, straw, fodder, or other article whereby it appears to her that infection or contagion may be conveyed, and generally to make such regulations with respect to the importation of sheep, cattle, horses, or other animals, as she may consider to be necessary in order to prevent the introduction of any contagious or infectious disorder.

Power to make, by order in council, regulations for subjecting sheep, &c., to quarantine.

III. And be it enacted, that if any cattle, sheep, horses, or other animals be imported or introduced, or attempted to be imported or introduced, contrary to orders in council to be forfeited.

Cattle, &c., imported contrary to provisions of

(*a*) See "Diseased Meat," &c., p. 157.

ontrary to the provisions of any order or orders in council made in pur- nance of this act, the same shall be forfeited in like manner as goods pro- ibited to be imported by any act relating to the customs; and all persons nporting or introducing, or attempting to import or introduce the same, hall be liable to such penalties as are imposed on persons importing or ttempting to import goods prohibited by acts relating to the customs. 11 & 12 Vict. c. 105. Penalty on importing, &c.

IV. And be it enacted, that it shall be lawful for her Majesty, by any urther order or orders in council, from time to time to revoke the whole r any part of any order or orders issued by her Majesty in council under he authority of this act; and that from and after a day to be named in uch order or orders of revocation, such order or orders issued under the uthority of this act, or such part thereof as shall be specified in such rder or orders of revocation, shall cease and determine. Orders in council may be revoked in whole or in part from time to time.

V. And be it enacted, that every order or orders in council issued under he authority of this act shall, within fourteen days after the issuing hereof, be twice published in the London Gazette; and that a copy of very order or orders in council issued under the authority of this act shall e laid before both houses of parliament within six weeks after issuing the ame, if parliament be then sitting, and if not, then within six weeks after he commencement of the then next session of parliament. Orders in council to be published in the London Gazette.

VI. And be it enacted, that this act may be amended or repealed by any ct to be passed in the present session of parliament. Act may be amended, &c.

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## 11 & 12 Vict. c. 107.

11 & 12 Vict. c. 107.

*An Act to prevent, until the First Day of September One thousand eight hundred and fifty, and to the End of the then Session of Parliament, the spreading of contagious or infectious Disorders among Sheep, Cattle, and other Animals* (a).

[4th September, 1848.]

WHEREAS a contagious or infectious disorder, known or described as the eep pox or variola ovina, now prevails among the sheep in some parts of e United Kingdom, and it is necessary to take measures to prevent such sorder from spreading: be it therefore enacted by the Queen's most cellent Majesty, by and with the advice and consent of the Lords spiritual d temporal, and Commons, in this present parliament assembled, and the authority of the same, that in case any sheep or lambs infected ith or labouring under the said disorder, or any disorder of the like ture, be exposed or offered for sale, or be brought or attempted to be ought for the purpose of being so exposed or offered for sale, in any arket, fair, or other open or public place where other animals are com- only exposed for sale, then and in any such case it shall be lawful for y clerk or inspector, or other officer of such fair or market, or for any nstable or policeman, or for any other person authorised by the mayor, by any two justices of the peace having jurisdiction in the place, or for y person authorised or appointed by her Majesty in council, to seize the me, and to report such seizure to the mayor or any justice of the peace ving jurisdiction in the place; and it shall be lawful for such mayor or stice either to restore the same, or to cause the same, together with any ns, hurdles, troughs, litter, hay, straw, or other articles which he may dge likely to have been infected thereby, to be forthwith destroyed or herwise disposed of in such manner as he shall deem proper, or as may e directed in manner hereinafter provided; and any person bringing or Infected sheep exposed for sale may be seized and destroyed, together with pens, hurdles, &c. Penalty on parties ex-

(a) See "Diseased Meat," &c., p. 157.

11 & 12 Vict. c. 107.

attempting to bring any sheep, lambs, oxen, bulls, cows, calves, or other horned cattle, into any such market, fair, or open or public place as aforesaid, knowing such sheep, lambs, or cattle to be infected with or labouring under either of such disorders as aforesaid, shall, upon conviction thereof, forfeit and pay for each and every such offence a sum not exceeding twenty pounds.

Penalty on persons exposing cattle for sale, knowing them to be diseased.

II. And be it enacted, that if any person turn out, keep, or depasture any sheep or lambs infected with or labouring under the said disorder in or upon any forest, chase, wood, moor, marsh, heath, common, waste land, open field, road side, or other undivided or unenclosed land, such person shall, on conviction thereof, forfeit and pay any sum not exceeding twenty pounds.

Penalty on persons depasturing diseased sheep, &c.

III. And whereas it is expedient for the preservation of the public health to make more effectual provision for preventing the exposure for sale of any meat unfit for human food: be it enacted, that if any meat unfit for human food be exposed or offered for sale in any market, fair, or other open or public place, it shall be lawful for such clerks, inspectors, constables, policemen, or other persons authorised as aforesaid to seize the same, and to report such seizure to such mayor or justice as aforesaid; and such mayor or justice may either order the same to be restored, or to be destroyed or otherwise disposed of as aforesaid; and any person publicly exposing or offering such meat for sale shall, upon conviction, forfeit and pay for each and every such offence a sum not exceeding twenty pounds.

Penalty on persons exposing for sale meat unfit for human food.

Privy council may make regulations as to removal of sheep, &c.;

IV. And for the more effectually preventing the spreading of contagious or infectious disease, be it enacted, that it shall be lawful for the Lords and others of her Majesty's privy council, or any two or more of them, from time to time to make such orders and regulations as to them may seem necessary for the purpose of prohibiting or regulating the removal, to or from such parts or places as they may designate in such order or orders, of sheep, cattle, horses, swine, or other animals, or of meat, skins, hides, horns, hoofs, or other parts of any animals, or of hay, straw, fodder, or other articles likely to propagate infection; and also for the purpose of purifying any yard, stable, outhouse, or other place, or any waggons, carts, carriages, or other vehicles; and also for the purpose of directing how any animals dying in a diseased state, or any animals, parts of animals, or other things seized under the provisions of this act, are to be disposed of; and also for the purpose of causing notices to be given of the appearance of any disorder among sheep, cattle, or other animals, and to make any other orders or regulations for the purpose of giving effect to the provisions of this act, and again to revoke, alter, or vary any such orders or regulations; and all provisions for any of the purposes aforesaid in any such order or orders contained shall have the like force and effect as if the same had been inserted in this act; and all persons offending against the same shall for each and every offence forfeit and pay any sum not exceeding twenty pounds, or such smaller sum as the said Lords or others of her Majesty's privy council may in any case by such order direct.

as to purifying yards, stables, &c.; as to disposal of animals dying in an infected state; and as to giving notice of appearance of disease, &c.

Penalty for offending against the same.

Orders, &c., to be published in Gazette and in country newspapers;

V. And be it enacted, that all orders and regulations made under the authority of this act shall, within fourteen days after the issuing thereof, be twice published in the London Gazette; and in case such orders or regulations apply to any particular places or districts, then the same shall also be twice published, within fourteen days as aforesaid, in some newspaper or newspapers circulating in the county or counties within which each of such places or districts, or any part or parts thereof respectively, is or are situated.

and to be laid before parliament.

VI. And be it enacted, that a copy of every such order or orders shall be laid before both houses of parliament within six weeks after issuing the same, if parliament be then sitting, and if parliament be not then sitting, then within six weeks after the commencement of the then next session of parliament.

VII. And be it enacted, that in case any person wilfully obstruct or upede any person acting under the authority of this act, or of any order r regulation made in pursuance of this act, every person so offending, and ll others aiding and assisting therein, shall and may be seized and de- ained by such person so acting under the authority of this act as aforesaid, r any person or persons he may call to his assistance, until such offender r offenders can be conveniently taken before some justice of the peace aving jurisdiction in the county or place wherein such offence shall be ommitted, and when convicted before such justice as aforesaid (who is ereby authorised and required, upon complaint to him upon oath, to take ognisance thereof, and to act summarily in the premises), shall, in the iscretion of such justice, forfeit any sum not exceeding five pounds, and 1 default of payment thereof shall and may be imprisoned for any term ot exceeding two calendar months, unless the amount of the penalty shall ave been sooner discharged.

Penalty for obstructing persons in the execution of this act.

VIII. And be it enacted, that every penalty or forfeiture imposed by his act may be recovered by summary proceeding before two justices; and on the exhibition of any information in writing before any justice such stice shall issue a summons requiring the party complained against to pear before two justices having jurisdiction, at a time and place to be ined in such summons; and every such summons shall be served on the rty offending, either in person or by leaving the same with some inmate, his last or usual place of abode; and upon the appearance of the party mplained against, or in his absence, after proof of the service of such mmons, it shall be lawful for any two justices having jurisdiction to oceed to the hearing of the complaint; and upon proof of the offence, ther by the confession of the party complained against or upon the oath one credible witness or more, it shall be lawful for such justices to con- ct the offender, and upon such conviction to adjudge the offender to pay ch penalty as may seem fit, and not greater than the penalty or forfeiture ecified in this act, as well as such costs attending the conviction as such stices shall think fit.

Penalties to be recovered by summary proceeding before two justices.

IX. And be it enacted, that if forthwith upon any such adjudication as oresaid the amount of the penalty or forfeiture, and of such costs as oresaid, be not paid, the amount of such penalty and costs shall be levied r distress, and such justices, or either of them, or any other justice aving jurisdiction as aforesaid, shall issue their or his warrant of distress cordingly.

Penalties to be levied by distress.

X. And be it enacted, that it shall be lawful for any such justice to der any offender so convicted as aforesaid to be detained and kept in safe stody until return can be conveniently made to the warrant of distress be issued for levying such penalty or forfeiture and costs, unless the fender give sufficient security, by way of recognisance or otherwise, to ie satisfaction of the justice, for his appearance before him on the day pointed for such return, such day being not more than eight days from ie time of taking such security; but if before issuing such warrant of stress it shall appear to the justice, by the admission of the offender or herwise, that no sufficient distress can be had within the jurisdiction of ich justice whereon to levy such penalty or forfeiture and costs, he may, be think fit, refrain from issuing such warrant of distress; and in such se, or if such warrant shall have been issued, and upon the return thereof ich insufficiency as aforesaid shall be made to appear to the justice, then ich justice shall by warrant cause such offender to be committed to gaol, iere to remain without bail for any term not exceeding three months, nless such penalty or forfeiture and costs be sooner paid and satisfied.

In default of distress, justices may commit the offender to prison.

XI. And be it enacted, that where in this act any sum of money, whe- ier in the nature of penalty or otherwise, is directed to be levied by stress, such sum of money shall be levied by distress and sale of the ods and chattels of the party liable to pay the same; and the overplus

Distress how to be levied.

11 & 12 Vict. c. 107.

arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress not unlawful for want of form.

XII. And be it enacted, that no distress levied by virtue of this act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Application of penalties.

XIII. And be it enacted, that all penalties and forfeitures recovered under this act shall be applied as follows: one half thereof shall be paid to the person who shall sue or proceed for the same, and the other half to her Majesty's use, and shall be paid to the sheriffs of the county, city, or town where the same shall have been imposed, and shall have been duly accounted for by him; and that all convictions before justices, and all fines, forfeitures, or penalties imposed in consequence of such convictions, shall be returned to the court of quarter sessions, under the provisions of an act passed in the third year of his late Majesty king George the Fourth, intituled "An Act for the more speedy Return and levying of Fines, Penalties, and Forfeitures, and Recognisances estreated."

Convictions to be returned to quarter sessions under 3 G. 4, c. 46.

Penalties to be sued for within two months after commission of offence.

XIV. And be it enacted, that no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this act for any offence made cognisable before a justice, unless the complaint respecting such offence shall have been made before such justice within two months next after the commission of such offence.

Penalty on witnesses making default.

XV. And be it enacted, that it shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall without reasonable excuse refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined on oath, or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Proceedings not to be quashed for want of form, nor removed by certiorari.

XVI. And be it enacted, that no warrant of commitment consequent upon any summary conviction under this act shall be held void by reason of any defect in such warrant, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same; nor shall any conviction, order, or other proceeding in pursuance of this act be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Parties aggrieved may appeal to quarter sessions, on giving security.

XVII. And be it enacted, that if any person shall think himself aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this act, he may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognisances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

Court may make such order as

XVIII. And be it enacted, that at the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the

owing sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable. they think reasonable.

XIX. And be it enacted, that in case the mayor or justice to whom the cure of any sheep, lambs, or cattle supposed to be infected as aforesaid, or of any meat supposed to be unfit for human food, may have been reported, shall upon inquiry order the same to be restored, and in case it appear to such mayor or justice that there was a probable cause of seizure, then and in such case such mayor or justice shall grant a certificate to the party making the seizure that there was such probable cause, and in such case no person or persons who made such seizure, being a person or persons acting under the authority of this act, or of any order made in pursuance thereof, shall not be liable to any action, indictment, or other suit or prosecution on account of such seizure; and in case any action, indictment, or other suit or prosecution shall be commenced and brought to trial against any person or persons, being a person or persons acting under such authority as aforesaid, on account of the seizure of any animals, parts of animals, hay, straw, fodder, or other articles seized as forfeited under the provisions of this act, or of any order or orders made under the authority of the same, wherein a verdict shall be given against the defendant or defendants, if the court or judge before whom such information or suit shall have been tried shall have certified on the said record that there was a probable cause for such seizure, then the plaintiff, besides the things seized or the value thereof, shall not be entitled to above twopence damages, nor to any costs of suit, nor shall the defendant or defendants in such prosecution be fined above one shilling. If suit brought on account of seizure, and the judge shall certify that there was probable cause, plaintiff to have 2d. damages and defendant fined not more than 1s.

XX. And be it enacted, that this act shall continue in force until the first day of September in the year of our Lord one thousand eight hundred and fifty, and if parliament be then sitting then further until the end of the then session (a). Act to continue in force for two years.

XXI. And be it enacted, that nothing in this act contained shall prejudice or derogate from the estates, rights, interests, privileges, franchises, jurisdiction, or authority of the mayor and commonalty and citizens of the city of London or their successors, or the lord mayor of the said city for the time being, nor prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of passing this act the said mayor and commonalty and citizens, or the said lord mayor for the time being, possess, by custom, charter, or otherwise, for the regulation, management, and control of markets, or the sale of infected meat, hides, skins, horns, fat, or other part of any infected animal, or infected hay, straw, fodder, or other article, or the lord mayor and court of aldermen, or the lord mayor, aldermen, and commons of the city of London, in common council assembled, under or by virtue of any act of parliament, did or might lawfully claim, use or exercise. Act not to affect the rights, &c., of the city of London.

XXII. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of parliament. Act may be amended, &c.

(a) Extended by 26 & 27 Vict. c. 95, to 1st of August, 1864, and end of next session.

## 14 & 15 Vict. c. 13.

14 & 15 Vict. c. 13.

### *An Act to regulate the Sale of Arsenic* (a).

[5th June, 1851.]

Whereas the unrestricted sale of arsenic facilitates the commission of crime: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

On every sale of arsenic particulars of sale to be entered in a book by the seller in form set forth in schedule to this act.

I. Every person who shall sell any arsenic shall forthwith, and before the delivery of such arsenic to the purchaser, enter or cause to be entered in a fair and regular manner in a book or books to be kept by such person for that purpose, in the form set forth in the schedule to this act, or to the like effect, a statement of such sale, with the quantity of arsenic so sold, and the purpose for which such arsenic is required or stated to be required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser, into all which circumstances the person selling such arsenic is hereby required and authorised to inquire of the purchaser before the delivery to such purchaser of the arsenic sold, and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the words "cannot write"), and, where a witness is hereby required to the sale, shall also be signed by such witness, together with his place of abode.

Restrictions as to sale of arsenic.

II. No person shall sell arsenic to any person who is unknown to the person selling such arsenic, unless the sale be made in the presence of a witness who is known to the person selling the arsenic, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the arsenic to the purchaser, and no person shall sell arsenic to any person other than a person of full age.

Provision for colouring arsenic.

III. No person shall sell any arsenic unless the same be before the sale thereof mixed with soot or indigo in the proportion of one ounce of soot or half an ounce of indigo at the least to one pound of the arsenic, and so in proportion for any greater or less quantity: provided always, that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than ten pounds at any one time.

Penalty for offending against this act.

IV. If any person shall sell any arsenic, save as authorised by this act, or on any sale of arsenic shall deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this act, or if any person purchasing any arsenic shall give false information to the person selling the same in relation to the particulars which such last-mentioned person is hereby authorised to inquire into of such purchaser, or if any person shall sign his name as aforesaid as a witness to a sale of arsenic to a person unknown to the person so signing as witness, every person so offending shall for every such offence, upon a summary conviction for the same before two justices of the peace in England or Ireland, or before two

(a) See "Poison," p. 161, and notes thereon.

justices of the peace or the sheriff in Scotland, be liable to a penalty not exceeding twenty pounds. 14 & 15 Vict. c. 13.

V. Provided, that this act shall not extend to the sale of arsenic when the same forms part of the ingredients of any medicine required to be made up or compounded according to the prescription of a legally qualified medical practitioner, or a member of the medical profession, or to the sale of arsenic by wholesale to retail dealers, upon orders in writing in the ordinary course of wholesale dealing. Act not to prevent sale of arsenic in medicine under a medical prescription.

VI. In the construction of this act the word "arsenic" shall include arsenious acid and the arsenites, arsenic acid and the arseniates, and all other colourless poisonous preparations of arsenic. "Arsenic" to include arsenious compounds.

THE SCHEDULE.

| Day of Sale. | Name and Surname of Purchaser. | Purchaser's Place of Abode. | | Condition or Occupation. | Quantity of Arsenic sold. | Purpose for which required. |
|---|---|---|---|---|---|---|
| *1 September, 1851.* | *John Thomas.* | *Hendon.* | *Elm Farm.* | *Farm Labourer.* | *5 lbs.* | *To steep Wheat.* |

*(Purchaser's signature.)* *John Thomas.*

*Or, if purchaser cannot write, seller to put here the words,* "cannot write."

*Witness,* *James Stone,* *Grove Farm, Hendon.*

*(Seller's signature.)* *George Wood.*

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## 14 & 15 VICT. C. 28.

*An Act for the well-ordering of Common Lodging Houses (a).* [24th July, 1851.] 14 & 15 Vict. c. 28.

WHEREAS it would tend greatly to the comfort and welfare of many of her Majesty's poorer subjects if provision were made for the well-ordering of common lodging houses: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows; to wit,

I. In citing this act for any purpose it shall be sufficient to use the expression "The Common Lodging Houses Act, 1851." Short title.

II. The following words and expressions in this act have, for the purposes and execution of this act, the following meanings; to wit, Interpretation of terms in this act.

The word "place" includes county, riding, hundred, and other division or part of a county, city, borough, parish, district, and other place whatsoever:

The word "borough," and the expressions "mayor, aldermen, and burgesses," and "borough fund," have respectively the same meaning as in the act for the regulation of municipal corporations:

The expression "improvement act" means an act for regulating and

(a) See "Common Lodging Houses," p. 81.

14 & 15 Vict. c. 28.

managing the police of, and for draining, cleansing, paving, lighting, watching, and improving a place, and an act for any of those purposes:

The expression "common lodging house" includes, in any case in which only a part of a house is used as a common lodging house, the part so used of such house.

By whom the act is to be executed.

III. This act shall be executed as follows; to wit,

1. Within and for all or any part of the metropolitan police district, by "the commissioners of police of the metropolis," or such one of them as is from time to time appointed in that behalf by one of her Majesty's principal secretaries of state:

2. Within and for all and any part of any place not being within the metropolitan police district, but being now or hereafter the district of a local board of health, by the local board of health for the district:

3. Within and for all and any part of any other place not being within the metropolitan police district, and not being the district of a local board of health, but being now or hereafter an incorporated borough regulated under the act for the regulation of municipal corporations, or any act for the amendment thereof, or any charter granted in pursuance of any such act, by the mayor, aldermen, and burgesses of the borough acting by the council of the borough:

4. Within and for all and any part of any other place not being within the metropolitan police district, and not being the district of a local board of health, and not being such an incorporated borough, but being now or hereafter the place within the limits of an improvement act, by the commissioners, trustees, or other body, by whatever name known, for executing the improvement act:

5. Within and for all and any part of any other place not being one of the places hereinbefore specified, by the justices of the peace acting in petty sessions for the place.

As to expenses of executing this act.

IV. The expenses of and incident to the executing of this act shall be borne and paid as follows; to wit,

1. With respect to the metropolitan police district, as part of the general expenses of executing the acts for the time being in force relating to the metropolitan police force:

2. With respect to the district of a local board of health, as part of the expenses of executing the acts for the time being in force relating to the local board of health, and as charged upon and payable out of the monies carried, under the Public Health Act, 1848, to the district fund account of the local board of health:

3. With respect to an incorporated borough, as part of the expenses of carrying into execution within the borough the provisions of the act for the regulation of municipal corporations, and as charged upon and payable out of the borough fund of the borough:

4. With respect to a place within the limits of an improvement act, as part of the general expenses of executing that act, and as charged upon and payable out of the monies from time to time applicable for those expenses:

5. With respect to a place in which this act is executed by justices in petty sessions, as part of the general expenses of the constablewick of the place, and as charged upon and payable out of the monies from time to time applicable for those expenses:

And the monies from time to time required for the payment of the expenses of and incident to the execution of this act shall be assessed, levied, raised, recovered, and paid accordingly.

Meaning of the term "the local authority."

V. The expression in this act "the local authority" means, with respect to the purposes and execution of this act with respect to any place, the body or person by this act authorised to execute with respect to the place the several provisions of this act.

14 & 15 Vict. c. 28.

Within three months after the passing of this act the local authority and from time to time thereafter the local authority may, give to the r of every common lodging house already or hereafter within the iction under this act of the local authority notice in writing of this nd shall give such notice by leaving the same for such keeper at the , and shall by such notice require the keeper to register the house as s act provided, and such notice may be in the form in the schedule s act annexed, or to the like effect.

Notice of this act to be given to the keepers of common lodging houses.

. The local authority shall keep a register in which shall be entered ames and residences of the keepers of all common lodging houses ı the jurisdiction of the local authority, and the situation of every ıouse, and the number of lodgers authorised according to this act to eived therein.

Registers of common lodging houses to be kept.

I. After one month after the giving of such notice to register as by ıct provided, the keeper of any common lodging house or any other ı shall not receive any lodger in such house until the same has been ted and approved for that purpose by some officer appointed in that f by the local authority, and has been registered as by this act led.

Lodgers not to be received in common lodging houses until registered under this act.

. The local authority may from time to time make regulations re- ng common lodging houses within its jurisdiction for all or any of the ses respecting the same for which the local board of health are by the c Health Act, 1848, authorised to make byelaws, and for the well- ng of such houses, and for the separation of the sexes therein (*a*): led always, that the regulations made under this act by the local rity shall not be in force until they have been confirmed by one of Majesty's principal secretaries of state.

Power to local authority to make regulations respecting common lodging houses.

The local authority shall have the same power of imposing penalties enders against the said regulations, subject to the same restrictions, ı local board with respect to offenders against such byelaws, and such ties shall be recoverable in the same way as is provided in the said ith respect to the penalties imposed on offenders against such bye- ; and a copy of the said regulations, purporting to be signed by the ary of state, and also to be signed by the local authority (or to be l with the seal of the same, in case it have a seal), shall be receivable idence of such regulations, and of the duly making and confirming of.

Power to local authority to impose penalties for offences committed against regulations.

. The keeper of a common lodging house shall, when a person in such ı is ill of fever or any infectious or contagious disease, give immediate e thereof to the local authority, or some officer of the local authority, lso to the poor law medical officer and the poor law relieving officer ı union or parish in which the common lodging house stands.

Keepers of common lodging houses to give notice of fever, &c., therein.

I. The keeper of a common lodging house, and every other person ıg or acting in the care or management thereof, shall, at all times required by any officer of the local authority, give him free access to house or any part thereof.

As to inspection of common lodging houses.

II. The keeper of a common lodging house shall thoroughly cleanse he rooms, passages, stairs, floors, windows, doors, walls, ceilings, es, cesspools, and drains thereof, to the satisfaction of, and so often as be required by or in accordance with any regulation or byelaw of the authority, and shall well and sufficiently, and to the like satisfaction, wash the walls and ceilings thereof in the first week of each of the hs of April and October in every year.

As to cleansing of common lodging houses.

V. If the keeper of a common lodging house, or any other person ıg or acting in the care or management thereof, offend against any of provisions of this act, or any of the byelaws or regulations made in ıance of this act, or if any person in any common lodging house be

Penalty for offences against this act.

(*a*) See 11 & 12 Vict. c. 63, *ante*. Also Forms of Byelaws, *post*.

14 & 15 Vict. c. 28.

confined to his bed for forty-eight hours by fever or any infectious or contagious disease, without the keeper of such house giving notice thereof as required by this act, every person so offending shall for every such offence be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day during which the offence continues (*a*): provided always, that this act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this act.

Recovery of penalties.

XV. The clauses and provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the recovery of damages not specially provided for, and of penalties (*b*), and to the determination of any other matter referred to justices," are for the purposes and execution of this act incorporated with this act.

General powers of local authority, &c.

XVI. The local authority, and all justices, constables, and others, shall respectively have full jurisdiction, powers, authorities, and indemnities for executing the several provisions of this act; and the restrictions of the Public Health Act, 1848, as to the hours within which common lodging houses may be entered by persons authorised by a local board of health, shall not apply to this act.

Act not to extend to the city of London;

XVII. That this act shall not extend to the city of London or the liberties thereof.

nor to Scotland.

XVIII. That nothing in this act shall extend to Scotland.

## SCHEDULE.

*Form of Notice.*

TAKE notice, that on the [ ] day of [ ] an act called "The Common Lodging Houses Act, 1851," was passed, and that before the [ ] day of [ ] you, being the keeper of a common lodging house within [*here state the place over which the jurisdiction of the local authority giving the notice extends*], must have your common lodging house registered, and that the register is to be kept at [*here state where the register is to be kept*], and that if you do not have your common lodging house so registered you will be liable to a penalty not exceeding five pounds for every lodger whom you receive in your common lodging house while it is not so registered; and that on your applying to [*here give the name and address of the person to keep the register*] he will register your common lodging house free of all charge to you. Dated [*&c.*]

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## 14 & 15 VICT. C. 34.

14 & 15 Vict. c. 34.

*An Act to encourage the Establishment of Lodging Houses for the Labouring Classes* (*c*). [24th July, 1851.]

WHEREAS it is desirable, for the health, comfort, and welfare of the inhabitants of towns and populous districts, to encourage the establishment therein of well-ordered lodging houses for the labouring classes: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same,

Short title of act.

I. That in citing this act for any purpose it shall be sufficient to use the expression "The Labouring Classes Lodging Houses Act, 1851."

(*a*) See 16 & 17 Vict. c. 41, s. 11, p. 331.
(*b*) See note (*c*), p. 108.
(*c*) See "Labouring Classes Lodging Houses," p. 85.

14 & 15 Vict. c. 34.

II. That this act may be adopted for any incorporated borough in England regulated under an act passed in the sixth year of the reign of his late Majesty, to provide for the regulation of municipal corporations, or by charter granted in pursuance of the said act, or any act passed for the amendment thereof, and also for any place being the district of any local board of health regulated under the Public Health Act, 1848 (a), or any act passed for the amendment thereof, and also for any place being the district within the limits of any act for the paving, lighting, watching, draining, or otherwise improving of such place, and also, with the approval of one of her Majesty's principal secretaries of state, for any parish in England, having, according to the then last census, a population of not less than ten thousand, or being a parish in any such incorporated borough, having, according to the then last census, a population of not less than ten thousand, and also with the like approval for each of several parishes as by this act in that behalf provided.

Act may be adopted in certain boroughs and parishes.

III. That in this act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

Interpretation of terms.

"Parish" shall mean every place maintaining its own poor, and having a vestry:

"Borough" shall mean city, borough, port, cinque port, or town corporate:

"District" shall mean any place being the district of such a local board of health, and shall also mean any place being the district within the limits of such an improvement act:

"Ratepayers" shall mean all persons for the time being assessed to and paying rates for the relief of the poor of the parish:

"Churchwardens" shall mean also chapelwardens or other persons discharging the duties of churchwardens:

"Overseers" shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

"Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry elected under an act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to amend the Laws for the Relief of the Poor," or elected under an act passed in the second year of the reign of his late Majesty, intituled "An Act for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales," or elected under the provisions of any local act of parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry, and shall also mean any body of persons, by whatever name distinguished, acting, by virtue of any act of parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry (b).

59 G. 3, c. 12.

1 & 2 W. 4, c. 60.

"Board" shall mean, as regards the district of such a local board of health, such local board of health for the time being in office and acting as such local board of health, and, as regards the district within the limits of such an improvement act, the commissioners, trustees, or other body of persons by whatever name distinguished for the time being in office and acting in the execution of such act:

"Commissioners" shall mean the commissioners appointed in accordance with this act for any parish, and for the time being in office and acting as such commissioners:

"Clerk" shall mean, as regards an incorporated borough, the town clerk of such borough, and, as regards a district, the clerk of the board of

(a) 11 & 12 Vict. c. 63, *ante*.

(b) See note (b), p. 27.

14 & 15 VICT. c. 34.

such district, and, as regards a parish, the clerk appointed pursuant to this act by the commissioners:

"Justice" shall mean justice of the peace for the county, riding, division, liberty, borough, district, parish, or place where the matter requiring the cognisance of justices shall arise:

"Improvement rates" shall mean the rates, tolls, rents, income, and other monies whatsoever which under the provisions of any such improvement act shall be applicable for the general purposes of such act:

"Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure:

Words importing the masculine gender shall include the feminine:

Words of the plural number shall include the singular, and words of the singular number shall include the plural.

Council of any borough may adopt the provisions contained in this act if they think fit.

IV. That the council of any such borough as aforesaid may, if they think fit, determine that this act shall be adopted for such borough, and then and in such case such of the provisions of this act as are applicable in that behalf shall thenceforth take effect and come into operation in such borough, and this act shall be carried into execution in such borough, in accordance with such provisions and the laws for the time being in force relating to the municipal corporation of such borough.

Expenses of carrying this act into execution in a borough shall be charged upon the borough fund, and income arising to be carried to the same.

V. That the expenses of carrying this act into execution in any such borough in which the council shall have resolved to adopt this act for their borough shall be chargeable upon and paid out of the borough fund, and for that purpose the council may levy with and as part of the borough rate, or by a separate rate to be assessed, levied, paid, and recovered in like manner and with the like powers and remedies in all respects as the borough rate, such sums of money as shall be from time to time necessary for defraying such expenses, and shall apply the same accordingly, as if the expense of carrying this act into execution were an expense necessarily incurred in carrying into effect the provisions of the said act of the sixth year of the reign of his late Majesty; and the income arising from the lodging houses in any borough shall be paid to the credit of the borough fund thereof; and the council shall keep distinct accounts of their receipts, payments, credits, and liabilities with reference to the execution of this act, to be called "The Lodging Houses Account."

Any local board of health may adopt the provisions of this act if they think fit.

VI. That the board of any such district, being the district of a local board of health, may, if they think fit, determine that this act shall be adopted for such district, and then and in such case such of the provisions of this act as are applicable in that behalf shall thenceforth take effect and come into operation in such district, and this act shall be carried into execution in such district, in accordance with such provisions and the laws for the time being in force relating to such board.

On requisition of ratepayers board to postpone proceedings till after next day for election of members of board.

VII. Provided always, that the board shall give not less than twenty-eight nor more than forty-two days' public notice of their intention to take into consideration the propriety of adopting this act, and of the time and place for holding the meeting at which they will take it into consideration; and if there be presented to the board at that meeting a memorial in writing, signed by not less than one tenth in value of the persons liable to be rated to a general district rate made by the board, and requesting the board to postpone such consideration until after the then next yearly day for the election of members of the board, then and in such case such consideration shall be postponed until after that day, and shall be entered on as soon after that day as the board think fit.

Expenses of carrying this act into execution by local board of

VIII. That the expenses of carrying this act into execution in any such district, being the district of a local board of health in which the board shall have resolved to adopt this act for their district, shall be chargeable upon and paid out of the monies from time to time carried to the credit of the district fund account of such district, and for that purpose the board

evy with and as part of the general district rate of such district, or eparate rate to be assessed, levied, paid, and recovered in like manner ith the like powers and remedies in all respects as the general rate of listrict, such sums of money as shall be from time to time necessary fraying such expenses, and shall apply the same accordingly as if the se of carrying this act into execution were an expense necessarily ed in carrying into effect the provisions of the public health act, and the income arising from the lodging houses in any such district be paid to the credit of the district fund account thereof; and the shall keep distinct accounts of their receipts, payments, credits, and ties with reference to the execution of this act, to be called "The ng Houses Account."

health shall be charged on the district fund, and income arising to be carried to the same.

That the board of any such district, being the place within the of any act for the paving, lighting, watching, draining, or otherwise ving of such place, may, if they think fit, determine that this act be adopted for such district, and then and in such case such of the ions of this act as are applicable in that behalf shall thenceforth take and come into operation in such district, and this act shall be carried xecution in such district in accordance with such provisions and the or the time being in force relating to such board.

Any improvement board may adopt the provisions of this act if they think fit.

Provided always, that the board shall give not less than twenty- days nor more than forty-two days public notice of their intention to nto consideration the propriety of adopting this act, and of the time lace for holding the meeting at which they will take it into con- tion; and if there be presented to the board at that meeting a rial in writing, signed by not less than one-tenth in value of the is liable to be rated to an improvement rate made by the board, and sting the board to postpone such consideration until after the then 'early or other day for the election or appointment of members of the , then and in such case such consideration shall be postponed until that day, and shall be entered on as soon after that day as the think fit.

On requisition of ratepayers board to postpone proceedings till after next day for election of members of board.

Provided always, that in any case in which the major part in er of the members of the board of any such district are elected pointed in any manner other than by or with the concurrence of the is liable to be rated to improvement rates made by the board, the shall not determine that this act shall be adopted for the district, t with the sanction of the major part in value of the persons so present at a meeting specially convened for the purpose by the by not less than twenty eight days nor more than forty-two days notice of the intention of holding such meeting, and of the time lace for holding the same; and such meeting shall be held at such ient place within the district, and at such convenient time, as ard think fit; and the procedure thereat shall be regulated by the

If majority of board not elected by ratepayers, consent of ratepayers to be obtained.

. That the expenses of carrying this act into execution in any such t, being the place within the limits of any such improvement act in the board shall have resolved to adopt this act for their district, shall rgeable upon and paid out of the improvement rate of such district, or that purpose the board may levy with and as part of such vement rate, or by a separate rate to be assessed, levied, paid, and red in like manner and with the like powers and remedies in all ts as such improvement rate, such sums of money as shall be time to time necessary for defraying such expenses, and shall apply me accordingly as if the expenses of carrying this act into execution n expense necessarily incurred in carrying into effect the general ions of such improvement act; and the income arising from the g houses in any such district shall be paid to the credit of the vement rate thereof; and the board shall keep distinct accounts of

Expenses of carrying this act into execution by improvement commissioners shall be charged on general improvement rate, and income arising to be carried to the same.

14 & 15 Vict. c. 34.

their receipts, payments, credits, and liabilities with reference to the execution of this act, to be called "the lodging houses account."

Auditing accounts of improvement commissioners with respect to act.

XIII. That in every case in which any such improvement act contains provisions for the auditing of accounts thereunder, the accounts of the board with respect to this act shall be audited in accordance with those provisions; and in every case in which any such improvement act does not contain any such provisions, the accounts of the board with respect to this act shall be audited yearly by the poor law auditor within whose district the district of the board lies; and the board shall produce to him their accounts, with sufficient vouchers for all monies received and paid, and he shall examine such accounts and vouchers, and report thereon to the board, and every such report shall be open at all reasonable times without charge to the inspection of every person liable to be rated to an improvement rate made by the board.

On the requisition of ten ratepayers, churchwardens, &c., to convene vestry meeting, to determine whether this act shall be adopted.

If vestry resolve to adopt the act, a copy of resolution to be sent to secretary of state, &c.

Resolution not deemed to be carried unless two-thirds vote for it.

XIV. That, upon the requisition in writing of ten or more ratepayers of any such parish as aforesaid, the churchwardens or other persons to whom it belongs to convene meetings of the vestry (*a*) in such parish shall convene a meeting of the vestry for the special purpose of determining whether this act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given, in each of three successive weeks before the day to be appointed for holding such vestry; and if thereupon it shall be resolved by the vestry that this act ought to be adopted for the parish, a copy of such resolution, extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of her Majesty's principal secretaries of state, for his approval, and as soon as such approval shall have been signified in writing under the hand of any such secretary of state such of the provisions of this act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish: provided always, that such resolution of the vestry shall not be deemed to be carried unless at least two-thirds in value of the votes given on the question, according to the usual manner of voting at such vestry, shall have been given for such resolution.

Where act adopted vestry to appoint commissioners for carrying the same into execution.

XV. That in such case the vestry shall appoint not less than three nor more than seven persons, being ratepayers of the parish, commissioners for carrying this act into execution in the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly, (the year being reckoned from and exclusive of the day of the first appointment of commissioners,) but shall be eligible for immediate re-appointment.

Registration of commissioners.

XVI. That any commissioner may at any time resign his office as a commissioner, on giving seven days' notice in writing of his intention to resign, to the clerk, and also to the churchwardens.

Vacancies to be filled up by vestry.

XVII. That any vacancies in the commissionership may be filled up by the vestry, when and as the vestry shall think fit, but at the latest at the then next yearly meeting for the appointment of commissioners.

Meetings of the commissioners.

XVIII. That the commissioners shall meet at least once in every calendar month, and at such other times as they think fit, at their office, or some other convenient place, public notice of the times and place of meeting being previously given.

Special meetings of commissioners.

XIX. That it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours' notice, the commissioners for any special purpose therein named, and to meet at such time as shall be therein named; and the commissioners may meet accordingly without further notice.

(*a*) See note, p. 27.

Quorum of meetings of comissioners.

XX. That at all meetings of the commissioners any number, not less than ne-third of the whole number when more than three commissioners shall ave been appointed, and when only three commissioners shall have been ppointed, then any number not less than two commissioners, shall be a fficient number for transacting business, and for exercising all the owers of the commissioners.

Commissioners may appoint and remove officers, &c.

XXI. That the commissioners, with the approval of the vestry, may ppoint reasonable salaries, wages, and allowances for a clerk and such ther officers and servants as shall be necessary for the purposes of this ct, and shall appoint and may remove at pleasure such clerk, officers, and ervants, and, when necessary, may hire and rent a sufficient office for olding their meetings and transacting their business, and may agree for nd pay a reasonable rent for such office.

Minutes of proceedings of commissioners to be entered in books.

XXII. That all orders and proceedings of the commissioners shall be ntered in books to be kept by them for that purpose, and shall be signed y the commissioners or any two of them; and all such orders and proceedings, so entered, and purporting to be so signed, shall be deemed to be riginal orders and proceedings, and such books may be produced and ead as evidence of all such orders and proceedings upon any appeal, trial, nformation, or other proceeding, civil or criminal, and in any court of aw or equity whatsoever.

Commissioners to keep accounts, which shall be open to inspection.

XXIII. That the commissioners shall provide and keep books in which shall be entered true and regular accounts of all sums of money received nd paid for or on account of the purposes of this act in the parish, and of ll liabilities incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred; and such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books or any part thereof, without paying for the same; and in case the commissioners or any of them, or any of their officers or servants, having the custody of such books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding five pounds.

Penalty for refusing to allow inspection.

Auditors to be appointed yearly, who shall examine the accounts and report to vestries.

XXIV. That the vestry shall yearly appoint two persons, not being commissioners, to be auditors of the accounts of the commissioners; and at such time in the month of March in every year after the adoption of this act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry: provided always, that if the general accounts of the parish be audited by a poor law auditor, the accounts of the commissioners shall be audited by such poor law auditor.

Expenses of executing act in any parish to be paid out of the poor's rate.

XXV. That the expenses of carrying this act into execution in any parish to such amount as shall be from time to time sanctioned by the vestry shall be chargeable upon and paid out of the monies to be raised or applicable for the relief of the poor of the parish; provided always, that the vestry shall be convened in the manner usual in the parish, and the amount for the time being proposed to be raised or applied for such expenses shall be expressed in the notice convening the vestry.

Overseers to levy as part of the poor's rate such sums as vestry shall deem neces-

XXVI. That for defraying the expenses so sanctioned the vestry may and shall from time to time order the overseers to levy with and as part of the rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid and recovered in like manner, and with the like powers and remedies in all respects, as such rate, and shall be

paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts; provided always, that in the notices requiring the payment of the rate the proportion which the amount to be thereby raised for the purposes of this act shall bear to the total amount to be thereby raised shall be stated as accurately as circumstances may admit.

Necessary to pay expenses.

Monies raised, and the income arising from lodging houses in the parish, to be applied towards defraying expenses.

XXVII. That the money raised for defraying the expenses of carrying this act into execution, and the income arising from the lodging houses in the parish, shall be applied by the commissioners in or towards defraying the expenses of carrying this act into execution in the parish; and whenever, after repayment of all monies borrowed for the purpose of carrying this act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish.

Vestries of two or more parishes may concur in carrying this act into execution, subject to the approval of secretary of state.

XXVIII. That the vestries of any two or more neighbouring parishes having, according to the then last census, an aggregate population of not less than ten thousand may, for the purpose of concurring in carrying this act into execution, respectively adopt this act in like manner as if the population of each of those parishes were, according to the then last census, not less than ten thousand; and the vestries of any two or more neighbouring parishes which shall have respectively adopted this act may concur in carrying this act into execution in such parishes, in such manner, not inconsistent with the provisions of this act, and for such time, as they shall mutually agree; and for that purpose it may, with the approval of such secretary of state, be agreed on between such vestries that any lodging houses shall be erected and made in any one of such parishes, to be vested in the commissioners thereof, and that the expenses of carrying this act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall in the management of the said lodging houses form one body of commissioners, and shall act accordingly in the execution of this act; and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes, and the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively, in the same proportions as those in which such parishes shall be liable to such expenses.

Incorporation of commissioners.

XXIX. That for the more easy execution of the purposes of this act the commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "the commissioners for lodging houses in the parish of ( ) in the county of ( )," and by that name may sue and be sued in all courts, and before all justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this act.

Acts of commissioners.

XXX. That all acts and proceedings of any person in possession of the

ffice of such commissioner, and acting in good faith as such commissioner, hall, notwithstanding his disqualification or want of qualification for, or ny defect or irregularity in, or in any way concerning his appointment to uch office, be as valid and effectual as if he were duly qualified, or there ad not been any such defect or irregularity.

missioners to be good notwithstanding informalities.

XXXI. That for carrying this act into execution in any borough, district, or parish respectively, the council, with the approval of the commissioners of her Majesty's treasury, and also with the approval of the general board of health, and the board, with the approval of the commissioners of her Majesty's treasury, and also with the approval of the general board of health, and the commissioners, with the sanction of the vestry, and also with the approval of the commissioners of her Majesty's treasury, and also with the approval of the general board of health, may from time to time borrow, at interest, on the security of a mortgage, as the case may be, of the borough fund, or of the general district rates, or of the improvement rates, or of the rates for the relief of the poor of the parish, the money which may be by them respectively required, and shall apply the monies so borrowed accordingly.

Councils, &c., may borrow money for the purposes of the act, with the approval of the treasury.

XXXII. That the commissioners for carrying into execution an act passed in the tenth year of the reign of her Majesty, intituled "An Act to authorize the Advance of Money out of the Consolidated Fund for carrying on Public Works and Fisheries and Employment of the Poor," may from time to time make to the council of any such borough or to any board or to the commissioners of any such parish respectively, for the purposes of this act, any loan, under the provisions of the recited act, or the several acts therein recited or referred to, upon security of the borough fund, or the general district rates, or the improvement rates, or the rates for the relief of the poor of the parish, as the case may be (*a*).

The public works loan commissioners may advance money for the purposes of this act.

XXXIII. That the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of money by any company on mortgage, and the provisions of the same act with respect to the accountability of the officers of the company, and the provisions of the same act with respect to the making of byelaws, subject to the provision hereinafter contained, and the provisions of the same act with respect to the recovery of damages not specially provided for, and penalties, so far as such provisions may respectively be applicable to the purposes of this act, shall be respectively incorporated with this act; and the expressions in such provisions applicable to the company and the directors shall apply, as regards a borough, to the council, and as regards a parish, to the commissioners; and all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall, in the application of such provisions to this act, be deemed to be required or directed to be made or executed, as regards a borough, under the common seal of the mayor, aldermen, and burgesses, and, as regards a parish, under the common seal of the commissioners; and so much of such provisions as are applicable to the secretary of the company shall apply to the clerk; and in such of the said provisions as relate to the inspection of accounts, as regards a borough, the burgesses, and, as regards a parish, the ratepayers, shall have the privileges of shareholders.

Certain provisions of 8 & 9 Vict. c. 16, incorporated with this act.

XXXIV. That the Lands Clauses Consolidation Act, 1845, shall be incorporated with this act (*b*): provided always, that the council, the board, and the commissioners respectively shall not purchase or take any lands otherwise than by agreement.

Provisions of 8 & 9 Vict. c. 18, incorporated with this act.

XXXV. That in any such borough the council, with the approval of the commissioners of her Majesty's treasury, may from time to time appropriate for the purposes of this act in the borough any lands vested in the consent of the treasury, lands vested in the

In boroughs the council may appropriate, with mayor, &c.

(*a*) See note, p. 126.

(*b*) See note, p. 118.

4 & 15 Vict. c. 34.

mayor, aldermen, and burgesses; and in any such district the board, with the approval of the general board of health, may from time to time appropriate for the purposes of this act in the district any lands vested in the board or at the disposal of the board; and in any such parish the commissioners appointed under this act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the poor law board, may from time to time appropriate for the purposes of this act in the parish any lands vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish; and in any such parish the commissioners, and in any such borough the council, and in any such district the board, may from time to time, with the like respective approval, contract for the purchasing or renting of any lands necessary for the purposes of this act; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the board in the case of a district, or in the commissioners in the case of a parish.

In parishes the commissioners may, with approval of vestry, &c., appropriate lands belonging to parish; or contract for purchase of the same.

Councils and commissioners may erect lodging houses.

XXXVI. That the council and board and commissioners respectively may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be, respectively, erect any buildings suitable for lodging houses for the labouring classes, and convert any buildings into lodging houses for the labouring classes, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

Councils and commissioners may enter into contracts for the purposes of this act.

XXXVII. That the council and board and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving such lodging houses, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purpose of this act, which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in the books to be kept for that purpose: provided always, that a contract above the value or sum of one hundred pounds shall not be entered into by the council or the board or the commissioners for the purposes of this act unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the borough or district or parish shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the council or board or commissioners at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the council or board or commissioners to accept any of the proposals so offered.

No contract above 100*l.* to be entered into without notice.

Council or commissioners may purchase existing lodging houses.

XXXVIII. That the council of any such borough, and the board of any such district, and the commissioners, with such respective approval as is by this act required with respect to the purchasing or renting in any other case of any lands necessary for the purposes of this act, may, if they shall think fit, contract for the purchase or lease of any lodging houses for the labouring classes already or hereafter to be built and provided in any such borough or district or parish, and appropriate the same to the purposes of this act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any lodging houses for the labouring classes which have been already or may hereafter be provided in any such borough or district or parish, by private subscriptions or otherwise, may, with the consent of the council of any such borough, or with the consent of the board

of any such district, or with the consent of the commissioners, and with the like respective approval, and with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said lodging houses to the said council or board or commissioners respectively, or make over to them the management of such lodging houses; and in all such cases the lodging houses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this act, as fully as if they had been built or provided by the council or board or commissioners, and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the board in the case of a district, or in the commissioners in the case of a parish. 14 & 15 Vict. c. 34.

XXXIX. That any commissioners of waterworks, trustees of waterworks, water companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, reservoirs, wells, springs, and streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for such lodging houses, either without charge or on such other favourable terms as they shall think fit. Power to water and gas companies to supply water and gas to lodging houses.

XL. That anything in this act contained shall not render any member of the council of any borough, or any member of any such board, or any commissioner, personally, or any of their lands, goods, chattels, or monies (other than such lands, goods, chattels, or monies as may be vested in or under the management or control of the council or board or commissioners respectively in pursuance of this act), liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of anything done or suffered in due pursuance of this act. Councillors and commissioners not to be personally liable.

XLI. That every person who shall feel aggrieved by any byelaw, order, direction, or appointment of or by the council or board or commissioners shall have the like power of appeal to the general quarter sessions as under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this act, he might have, if feeling aggrieved by any determination of any justice with respect to any penalty. Persons may appeal against orders of councils and commissioners.

XLII. That the council, with the approval of the commissioners of her Majesty's treasury, and the board, with the approval of the general board of health, and the commissioners appointed under this act, with the approval of the vestry and of the commissioners of her Majesty's treasury respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the board, or in the commissioners, respectively, for the purposes of this act, and apply the proceeds, or a sufficient part thereof, in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes, and the mayor, aldermen, and burgesses, or the board, or the commissioners, may convey the lands so sold or exchanged accordingly. Council, &c., empowered to make sale and exchange of lands, with consent.

XLIII. That whenever any lodging houses which shall have been for seven years or upwards established under the authority of this act shall be determined by the council, or by the board, or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary or too expensive to be kept up, the council or commissioners, with the approval of the commissioners of her Majesty's treasury, or the board with the approval of the general board of health, may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the board, or the commissioners, shall convey the same accordingly, and the purchase money shall be paid to such person as the council or board or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same, and the net proceeds of such sale When lodging houses are considered too expensive, they may, with approval of treasury, be sold, and proceeds of sale carried to borough fund or poor's rate.

14 & 15 Vict. c. 34.

shall be applied in the first instance in or towards payment or satisfaction of all the debts, liabilities, and engagements whatsoever, with respect to the purposes of this act, of the council, the board or the commissioners, and the surplus, if any, of such net proceeds paid to the credit of the borough fund, or of the general district rate, or of the improvement rate, or of the rate for the relief of the poor of the parish.

Commissioners to cease to be a corporation when their duties have ceased.

XLIV. Provided always, that whenever by reason of the sale of all the lodging houses provided under this act for a parish, and the application as by this act required of the net proceeds of such sale, and the performance of all other the duties under this act of the commissioners for the parish, or by any other reason, it becomes needless for the commissioners for a parish to continue to be a corporation, such commissioners shall thereupon cease to be a corporation, and their office as commissioners for the parish shall thereupon cease, and this act shall thereupon cease to be in force in the parish, but nevertheless this act may thereafter be adopted for the parish.

Management to be vested in council and parish commissioners.

XLV. That the general management, regulation, and control of the lodging houses established under this act shall, subject to the provisions of this act, be, as to any borough, vested in and exercised by the council, and as to any district vested in and exercised by the board, and as to any parish vested in and exercised by the commissioners.

Council, &c., may make bye laws for regulating the lodging houses.

XLVI. That the byelaws which the council and board and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such byelaws for the management, use, and regulation of the lodging houses, and of the tenants or occupiers thereof, and for determining from time to time the charges for the tenancy or occupation of the lodging houses, as the council and board and commissioners respectively shall think fit, and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants or by other persons, of any byelaw made by them respectively, and such byelaws shall make sufficient provision for the several purposes respectively expressed in the schedule to this act: provided always, that a byelaw made under the authority of this act shall not be of any legal force until the same shall have received the approval of one of her Majesty's principal secretaries of state.

Byelaws to be approved by the secretary of state.

Byelaws to be hung up in every room in the lodging houses.

XLVII. That a printed copy or sufficient abstract of the byelaws relating to the management, use, and regulation of the lodging houses shall be put up and at all times kept in every room therein.

Charges for occupation, &c., to be fixed by councils and commissioners.

XLVIII. That the council and the board and the commissioners respectively may from time to time make such reasonable charges for the tenancy or occupation of the lodging houses provided under this act as they shall think fit.

As to tenants of lodging houses receiving parochial relief.

XLIX. That any person who, or whose wife or husband, at any time while such person is a tenant or occupier of any such lodging house or any part of such a lodging house, receives any such relief, other than such relief granted on account only of accident or temporary illness, shall thereupon be disqualified for continuing to be such a tenant or occupier.

Lodging houses to be open to inspection of local boards of health.

L. That every lodging house established under this act which shall be within the district of a local board of health shall at all times be open to the inspection of such board, and the officers thereof from time to time authorised by such board to make such inspection.

Penalty on council, commissioners, or officers taking fees beyond sala-

LI. That if any clerk or other officer or any servant who shall be in anywise employed by any council or board or commissioners in pursuance of this act shall exact or accept any fee or reward whatsoever for or on account of anything done or forborne, or to be done or forborne, in pursuance of this act, or on any account whatsoever relative to putting this act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or board or commissioners, or shall in

anywise be concerned or interested in any bargain or contract made by the council or board or commissioners for or on account of anything done or forborne, or to be done or forborne, in pursuance of this act, or on any account whatsoever relative to the putting of this act into execution, or if any person during the time he holds the office of member of the council, or member of the board, or commissioner, shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this act, and shall for every such offence also forfeit not exceeding the sum of fifty pounds. 14 & 15 Vict. c. 34. ries, or being interested in contracts.

LII. That such part of any penalty recovered under this act as shall not be awarded to the informer shall be paid to the credit, as regards a borough, of the borough fund, and, as regards a district, of the general district rate thereof or the improvement rate thereof, and, as regards a parish, of the rate for the relief of the poor thereof. Application of penalties.

LIII. That nothing in this act shall extend to Scotland. Not to extend to Scotland.

SCHEDULE referred to by the foregoing act.

1. BYELAWS to be made in all cases.

For securing that the lodging houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the council or board or commissioners.

For securing the due separation at night of men, and boys above eight years old, from women and girls.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the council or board or commissioners.

2. BYELAWS to be made in boroughs, districts, and parishes wholly or partially within the districts of local boards of health.

For carrying out the regulations of the local boards of health.

3. BYELAWS to be made in parishes.

For regulating the procedure of the commissioners.

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## 15 & 16 VICT. C. 56.

*An Act for regulating the Qualifications of Pharmaceutical Chemists* (a). [30th June, 1852.] 15 & 16 Vict. c. 56.

WHEREAS it is expedient for the safety of the public that persons exercising the business or calling of pharmaceutical chemists in Great Britain should possess a competent practical knowledge of pharmaceutical and general chemistry and other branches of useful knowledge: and whereas certain persons desirous of advancing chemistry and pharmacy, and of promoting an uniform system of educating those who should practise the same, formed themselves into a society, called "The Pharmaceutical Society of Great Britain," which said society was on the eighteenth day of February one thousand eight hundred and forty-three incorporated by royal charter, whereby it was provided that the said society should consist of members who should be chemists and druggists who were or had been established on their own account at the date of the said charter, or who

(a) See "Pharmaceutical Chemists," p. 185.

15 & 16 Vict. c. 56.

should have been examined in such manner as the council of the said society should deem proper, or who should have been certified to be duly qualified for admission, or who should be persons elected as superintendents by the council of the said society: and whereas it is expedient to prevent ignorant and incompetent persons from assuming the title of or pretending to be pharmaceutical chemists or pharmaceutists in Great Britain, or members of the said pharmaceutical society, and to that end it is desirable that all persons before assuming such title should be duly examined as to their skill and knowledge by competent persons, and that a register should be kept by some legally authorised officer of all such persons: and whereas for the purposes aforesaid, and for extending the benefits which have already resulted from the said charter of incorporation, it is desirable that additional powers should be granted for regulating the qualifications of persons who may carry on the business of pharmaceutical chemists: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same:

Charter dated 18th Feb., 1843, confirmed, save as altered.

I. That the said charter of incorporation granted to the said society on the eighteenth day of February one thousand eight hundred and forty-three, save and except such part or parts thereof as are hereby altered, varied, or repealed, shall be and the same is hereby confirmed and declared to be in full force and virtue, and shall be as good and effectual to all intents and purposes as if this act had not been passed.

Power to council to alter bye laws, provided they are approved by a general meeting of society and the secretary of state.

II. The council of the said pharmaceutical society shall be and the same are hereby authorised and empowered to alter and amend the byelaws of the said society made and established under or in pursuance of the said charter of incorporation, and to make and establish such new or additional byelaws as they shall deem proper and necessary for the purposes contemplated by the said charter or by this act: provided always, that all such original byelaws, and all altered, amended, or additional byelaws, shall be confirmed and approved by a special general meeting of the members of the said pharmaceutical society, and by one of her Majesty's principal secretaries of state: provided also, that the existing byelaws of the said society shall continue in force until the next annual meeting of the said society to be held in the month of May one thousand eight hundred and fifty-three.

Manner of voting.

III. At all meetings of the said society at which votes shall be given for the election of officers, all members entitled to vote may give their votes either personally, or, in cases of residence exceeding five miles from the general post office, Saint Martin's le Grand, London, by voting papers authorised by writing, in a form to be defined in the byelaws of the said society, or in a form to the like effect, such voting papers being transmitted under cover to the secretary not less than five clear days prior to the day on which the election is to take place.

Council to appoint registrar, &c.

IV. The council of the said pharmaceutical society shall, within three calendar months after the passing of this act, appoint a fit and proper person as a registrar under this act, and the council of the said society shall have the power to remove the said registrar, or any future registrar to be appointed under this act, from the said office, and from time to time to appoint a new registrar in the room of any registrar who may die, or retire, or be removed from office as aforesaid, and also to appoint and remove from time to time a deputy registrar, and such clerks and other subordinate officers as may be requisite for carrying out the purposes of this act, and also to pay suitable salaries to the said registrar, deputy registrar, clerks, and officers.

Registrar to make registers of members of society, &c.,

V. The registrar to be appointed under or by virtue of this act shall from time to time make out and maintain a complete register of all persons being members of the said society, and also of all persons being associates and apprentices or students respectively, according to the terms of the

15 & 16 VICT. c. 56.

:r of incorporation, and shall keep a proper index of the register, and ch other registers and books as may be required by the council of the ociety, and may be necessary for giving effect to the byelaws of the ociety and to the provisions of this act.

and to keep an index and books, as may be required.

All such persons as shall at the time of the passing of this act be ers, associates, apprentices, or students of the said pharmaceutical y of Great Britain, according to the terms of the said charter of in- ation, shall be registered as pharmaceutical chemists, assistants, and ıtices or students respectively (a).

All members, associates, &c., of the society at the passing of this act entitled to be registered.

. The registrar to be appointed under or by virtue of this act shall nd, on the application of any person paying one shilling, to certify his hand whether or no any person whose name and address shall be hed to him appears in the said register or is a member of the phar- tical society of Great Britain or not; and the certificate of such ar, signed by the said registrar, and countersigned by the president members of the council of the said society, shall, in the absence of ce to the contrary, be sufficient evidence of the facts therein stated the date of the said certificate.

Registrar bound to certify, &c., and his certificate good evidence in absence of the contrary.

I. All such persons as shall from time to time be appointed under ɔursuance of the said charter of incorporation or the byelaws thereof, ler this act, shall be and the same are hereby declared to be fit and persons to conduct all such examinations as are provided for or ıplated by this act, and shall respectively have full power and ity and are hereby authorised and empowered to examine all persons nall present themselves for examination under the provisions of this their knowledge of the Latin language, in botany, in materia medica, ı pharmaceutical and general chemistry, and such other subjects as rom time to time be determined by any byelaw; provided always, uch examinations shall not include the theory and practice of medi- ıurgery, or midwifery; and the said examiners are hereby empowered ınt or refuse to such persons, as in their discretion may seem fit, :ates of competent skill and knowledge and qualification to exercise ısiness or calling of pharmaceutical chemists, or, as the case may e, to be engaged or employed as students, apprentices, or assistants tively.

Persons appointed under charter or byelaws, or this act to conduct examinations.

Power to examiners to grant certificates.

And to enable the said society to provide for the examination in nd of such students, apprentices, or assistants in Scotland as may to be examined there, it shall be lawful for the council of the society, hey are hereby required, to appoint such fit and proper persons in nd, to meet in Edinburgh or Glasgow, or such other place or places council may think desirable, and to conduct there all such examina- as are provided for and contemplated by this act, with such and the owers and authorities in respect thereof as are herein conferred, and nt to the persons to be so examined such and the like certificates as reinbefore specified and referred to, or to refuse the same; and all rovisions of this act shall be equally applicable to the examiners, nations, and parties examined in Scotland as to the examiners, ex- tions, and parties examined in England.

Examiners to be appointed for Scotland.

Every such person who shall have been examined by the persons ıted as aforesaid, and shall have obtained a certificate of qualification hem, shall be entitled to be registered by the registrar according to ovisions of this act, upon payment of such fee or fees as shall be fixed byelaws; and every such person duly registered as a pharmaceutical st shall be eligible to be elected as a member of the said society; and such person duly registered as an assistant shall be eligible for pharmaceutical chemists eligible to be

Persons who have obtained certificates entitled to be registered; persons registered as members;

(a) See note, p. 186.

15 & 16 VICT. c. 56.

admission as an associate of the said society; and every such person duly registered as a student or apprentice to a pharmaceutical chemist shall be eligible for admission into the said society; according to the byelaws thereof.

eligibility of persons registered as assistants, &c.

XI. That no person who is a member of the medical profession, or who is practising under right of a degree of any university, or under a diploma or licence of a medical or surgical corporate body, shall be entitled to be registered under this act; and if any registered pharmaceutical chemist shall obtain such diploma or licence, his name shall not be retained on the said register during the time that he is engaged in practice as aforesaid.

Exceptions.

Persons not duly registered shall not assume or use name or title of pharmaceutical chemist, or any name, title, or sign implying the same.

XII. From and after the passing of this act, it shall not be lawful for any person, not being duly registered as a pharmaceutical chemist according to the provisions of this act, to assume or use the title of pharmaceutical chemist or pharmaceutist in any part of Great Britain, or to assume, use, or exhibit any name, title, or sign implying that he is registered under this act, or that he is a member of the said society; and if any person, not being duly registered under this act, shall assume or use the title of pharmaceutical chemist or pharmaceutist, or shall use, assume, or exhibit any name, title, or sign implying that he is a person registered under this act, or that he is a member of the said society, every such person shall be liable to a penalty of five pounds; and such penalty may be recovered by the registrar to be appointed under this act, in the name and by the authority of the council of the said society, in manner following; (that is to say,)

Penalty on persons offending.

Penalties, how recoverable in England and Wales;

In England or Wales, by plaint under the provisions of any act in force for the more easy recovery of small debts and demands:

in Scotland.

In Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county, or in the royal burghs before the magistrates of the burghs where the offence may be committed or the offender resides, who, upon proof of the offence or offences either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable in the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff or magistrate, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding:

provided always, that it shall be lawful to the sheriff or magistrate, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff or magistrate in such summary application shall be final and conclusive, and not subject to review, by advocation, suspension, reduction, or otherwise.

Limitation for recovery of penalties, &c.

XIII. Provided always, that no action or other proceeding for any offence under this act shall be brought after the expiration of six months from the commission of such offence; and in every such action or proceeding the party who shall prevail shall recover his full costs of suit or of such other proceedings.

Application of penalties.

XIV. All and every sums and sum of money which shall arise from any conviction and recovery of penalties for offences incurred under this act shall be paid as the commissioners of her Majesty's treasury shall direct.

Registrar falsifying register, &c., guilty of a misdemeanor.

XV. If any registrar under this act shall wilfully make or cause to be made any falsification in any matters relating to any register or certificate aforesaid, every such offender shall be deemed guilty of a misdemeanor.

Any person wilfully procuring false certificate guilty of a misdemeanor.

XVI. If any person shall wilfully procure by any false or fraudulent means a certificate purporting to be a certificate of registration under this act, or shall fraudulently exhibit a certificate purporting to be a certificate

membership of the Pharmaceutical Society, every such person so offend- 15 & 16 VICT. c. 56.
; shall be adjudged guilty of a misdemeanor.

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## 15 & 16 VICT. c. 84.

*Act to make better Provision respecting the Supply of Water to the Metropolis (a).* [1st July, 1852.] 15 & 16 VICT. c. 84.

WHEREAS it is expedient to make provision for securing the supply to metropolis of pure and wholesome water, and otherwise to make ther and better provision in relation to the water supply of the tropolis: be it therefore enacted by the Queen's most excellent jesty, by and with the advice and consent of the Lords spiritual and iporal, and Commons, in this present parliament assembled, and by the hority of the same, as follows:

. From and after the thirty-first day of August one thousand eight idred and fifty-five, it shall not be lawful for any company supplying metropolis or any part thereof with water for domestic use, except the ernor and company of Chelsea waterworks, to take any water for such pose from any part of the river Thames below Teddington Lock, or n any part of any of the tributary rivers or streams of the river imes below the highest point where the tide flows in such tributary :rs and streams respectively; and from and after the thirty-first of August one thousand eight hundred and fifty-six it shall not be ful for the said governor and company of Chelsea waterworks to take water for domestic use from any part of the river Thames below dington Lock. Restriction as to sources of supply of water to the metropolis.

I. From and after the thirty-first day of August one thousand eight idred and fifty-five every reservoir within a distance in a straight line n Saint Paul's cathedral in the city of London of not more than five es, in which water for the supply for domestic use of the metropolis or part thereof is stored or kept by any company, shall be roofed in or erwise covered over: provided always, that this provision shall not end to any reservoir the water from which is subjected by the company fficient filtration after it is discharged from such reservoir, and before s passed into the mains or pipes of the company for distribution, or to reservoir the whole of the water from which is distributed through inct mains or pipes for other than domestic purposes, nor to any ervoir whatever the water stored in which shall be used exclusively for er than domestic purposes. Reservoirs, within a limited distance, to be covered.

II. From and after the thirty-first day of December one thousand eight idred and fifty-five, no water shall be brought or conducted within the tropolis by any company for the purpose of domestic use otherwise n through pipes or through covered aqueducts, unless the same shall be erwards filtered before distribution. Water not to be brought within a limited distance in open aqueducts.

IV. From and after the thirty-first day of December one thousand eight ndred and fifty-five, every company shall effectually filter all water pplied by them within the metropolis for domestic use, before the same all pass into the pipes for distribution, excepting any water which may pumped from wells into a covered reservoir or aqueduct, without posure to the atmosphere, and which shall not be afterwards mixed th unfiltered water. Every company to filter all water supplied by them for domestic use.

V. Three months before any company shall resort to any new source of pply, such company shall give notice in writing thereof to the lords of Company to give notice

(a) See "Water Supply," p. 45.

15 & 16 VICT. c. 84.

to board of trade before resorting to new sources of supply, who may thereupon appoint an inspector to report.

the committee of privy council for trade and plantations, hereinafter called the board of trade, and thereupon, within one month after receipt of such notice, the said board of trade shall, if they think fit, appoint a competent person as an inspector, who shall report with respect to any sources then specially authorised by parliament, whether the directions of the special act have been complied with in reference thereto, and with respect to any new sources not specially authorised by parliament, whether the same are capable of supplying good and wholesome water for domestic purposes.

Inspector to give notice to companies of his intention to visit new sources.

VI. The inspector so appointed as aforesaid shall within ten days after such appointment give notice in writing to the company thereof, and of the time at which he proposes to visit and inspect the said sources, and thereupon, in order to enable him to make such report as aforesaid, it shall be lawful for the said inspector to enter the lands wherein such sources respectively are situate, and to examine and make inquiry touching the premises.

Board of trade to certify their approval or disapproval of new sources.

VII. The board of trade shall, within twenty-one days after the receipt from the said inspector of his report, send to such company with respect to any such new sources of supply not specially authorised by parliament a certificate in writing of their approval or disapproval thereof, and with respect to any such sources as shall then be specially authorised by parliament a notice in writing stating whether in the judgment of the said board of trade the directions of the special act have in reference thereto been complied with.

If board of trade disapprove, company not to use new source of supply.

VIII. After the company shall have received a certificate that the said board of trade disapproves of any such new source of supply not specially authorised by parliament as aforesaid, it shall not be lawful for the company to use the said source, and after receipt of such notice as aforesaid that in the judgment of the said board of trade the directions of the special act with reference to any sources then specially authorised by parliament have not been complied with, it shall not be lawful for the company, before complying with such directions with reference to such source, to use the same.

On complaint as to quantity and quality, board of trade may appoint a person to inquire and report.

IX. If at any time complaint as to the quantity or quality of the water supplied by any company for domestic use be made to the board of trade by memorial in writing signed by not less than twenty inhabitant householders paying rents for and supplied with water by the company, it shall be lawful for the board of trade, at any time within one month after the receipt of such complaint, to appoint a competent person to inquire into and concerning the grounds of such complaint, and to report to the board of trade thereon.

Powers of person appointed.

X. The person so appointed as aforesaid shall, within three days after such appointment, give notice thereof in writing to the company, and after such notice as aforesaid he shall have power to inspect and examine the waterworks of the company, and to inquire into and concerning the grounds of such complaint; and the company and their officers shall afford all reasonable facilities for such inspection, examination, and inquiry.

Penalty for obstructing inspector.

XI. Any person obstructing such inspector in the due prosecution of such inspection, examination, or inquiry, shall forfeit and pay any sum not exceeding ten pounds.

If complaint well founded, notice to be given to company.

XII. If after receipt of such report it shall appear to the board of trade that the said complaint is well founded, the board of trade shall give notice thereof in writing to the company.

Company to remove ground of complaint.

XIII. After the receipt of such notice the company shall and they are hereby required within a reasonable time to remove the grounds of such complaint.

Engines to

XIV. Every steam-engine, furnace, or other work in which coals which produce smoke during combustion shall be consumed by any company for

purpose of the waterworks shall be constructed on the most effectual nciple for consuming its own smoke.

consume their own smoke.

XV. After the expiration of five years from the passing of this act, ry company shall, subject to the provisions of the special act relating to h company, provide and keep, in the district mains already laid down hereafter to be laid by them, a constant supply of pure and wholesome ter sufficient for the domestic use of the inhabitants of all houses supplied such company, at such pressure as will make the water reach the top ry of the highest of such houses, but not exceeding the level prescribed the special act of such company: provided that no company shall be ind to provide a constant supply of water to any district main until r-fifths of the owners or occupiers of the houses on such main shall writing under their hands have required such company to provide h supply, nor even upon such requisition, in case it can be shown by r company objecting to the same that more than one-fifth of the houses such main are not supplied with pipes, cocks, cisterns, machinery, and angements of all kinds for the reception and distribution of water, istructed according to the regulations prescribed by the special act or this act, or which any company, with the approval of the board of de, may from time to time make in that behalf; and after any such uisition as aforesaid shall have been delivered to the company, it shall lawful for the surveyor, or any other person acting under the authority the company, between the hours of nine of the clock in the forenoon and r of the clock in the afternoon, to enter into any house or houses on h district main, in order to ascertain whether the pipes, cocks, terns, and machinery of such house and houses are so constructed as resaid; and provided also, that any company may, with the consent of e board of trade, suspend the giving of such constant supply, or give the ne in succession to the several districts of such company or to any rts of such districts as may be found to be convenient; and provided at it shall be lawful for the company, after due notice, to abstain from pplying, or to cut off the communication pipes, and withdraw the supply water from any house whereof the pipes, cocks, cisterns, machinery, or rangements as aforesaid shall not be in conformity with such regula- ns; provided that neither the Kent Waterworks Company nor the mpstead Waterworks Company shall be required to give such supply at y height exceeding one hundred and eighty feet above Trinity high- ter mark, nor the East London Waterworks Company be required to e such supply at any height exceeding forty feet above the level of the vement nearest the point at which such supply shall be required.

Provision for constant supply of water by every company.

XVI. Any company which shall violate, refuse, or neglect, to comply th any of the provisions hereinbefore contained shall forfeit to her jesty the sum of two hundred pounds, and the further sum of one ndred pounds for every month during which they shall continue to olate or to refuse or neglect to comply with the same after they shall ve received notice in writing from the board of trade to discontinue such olation, refusal, or neglect as aforesaid.

Penalty for non-compliance with the provisions of the act.

XVII. Every company shall, within one year after the passing of this , cause a map to be made of the district within which any mains or trict mains shall have been laid down or formed by them on a scale not s than six inches to a mile, and shall cause to be marked thereon the rse and situation of all existing mains and district mains, and shall, thin six months from the making of any alterations or additions, cause said maps to be from time to time corrected, and such additions made reto as may show the line and situation of all such mains and district ins as may be laid down or formed by them from time to time after the sing of this act; and such map, or a copy thereof, with the date pressed thereon of the last time when the same shall have been so cor- ted as aforesaid, shall be kept in the principal office of each company,

Map of underground works of the companies to be made, and kept at principal office of each company, and be open to inspection.

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and shall be open to the inspection of all persons interested in the same within the said district, who shall be at liberty to take copies of or extracts from the same.

Companies to furnish particulars of district mains when required.

XVIII. Every company, on the application of any person supplied with water by such company, shall furnish to such person the particulars of any district main from which such person is supplied, together with the names of the streets through which such district main passes, and the commencement and termination thereof.

Account of receipt and expenditure of rates, &c., to be prepared, and to be open to inspection.

XIX. And with respect to the yearly receipt and expenditure of every company, the company shall in each year cause an account in abstract to be prepared of the whole receipt and expenditure of all rates or other monies levied under the powers of their act, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the chairman of the company, and also by the auditors thereof, if any, and a copy of such annual account shall be sent, free of charge, to the town clerk of the city of London, and to the vestry clerk of each parish supplied with water by each company respectively, not within the city of London, on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent shall be kept by the said town clerk and vestry clerks respectively, and shall be open to inspection by all persons at all reasonable hours, on payment of one shilling for each inspection.

Board of trade may direct prosecutions to enforce provisions of acts.

XX. Whenever it shall appear to the board of trade that any of the provisions of this act have been violated, or have not been complied with on the part of any company, or that any company has acted or is acting in a manner unauthorized by the provisions of this act, and it shall also appear to the said board of trade that it would be for the public advantage that the company should be restrained from so acting, the said board of trade shall certify the same to her Majesty's attorney-general, and thereupon the said attorney-general shall proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, to recover any penalties which may have been incurred, or otherwise to enforce the due performance of the said provisions; and in case the default of the company shall consist in the commission of some act or acts unauthorized by law, then the said attorney-general, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity, or other judge to whom the application is made, shall be authorized and required to grant, if he shall be of opinion that the act or acts of the company complained of is or are not authorized by law), to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

Prosecutions to be under the sanction of board of trade and within one year after the offence.

XXI. No such certificate as aforesaid shall be given by the said board of trade until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and no proceedings shall be commenced under the authority of the said board of trade except within one year after the offence shall have been committed.

Cisterns to be supplied with proper ballcocks or other apparatus.

XXII. Whenever water shall be constantly laid on under pressure in any district main, every person supplied with water under pressure by any company through such main shall, when required by the company, provide a proper cistern or other receptacle for the water with which he shall be so supplied, with an efficient ballcock or other like apparatus; and if any cistern or other receptacle supplied with water under pressure shall be provided with or have any overflow spout, waste pipe, or other means or contrivance immediately connected or capable of being used therewith to carry off the water from such cistern or receptacle, such person shall be bound to give notice to the company of every such overflow spout, waste pipe, or other means or contrivance, and of the situation thereof; and, whether

uch notice shall have been given or not, the surveyor or any other person acting under the authority of the company may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house in order to examine if there be any waste, misuse, or undue consumption of water by means of any overflow spout, waste pipe, or other means or contrivance; and in case any such waste, misuse, or undue consumption of water shall be found to exist, or shall be deemed likely to occur from the use of any such overflow spout, waste pipe, or other means or contrivance, it shall be lawful for such surveyor or other person to give notice to the person so supplied with water, either to repair and amend or to remove such overflow spout, waste pipe, or other means or contrivance; and if the same shall not be forthwith repaired and amended, or removed, in accordance with such notice, it shall be lawful for the company immediately thereafter to turn off the water from the house, and to cease to supply the same with water.

Cisterns, closets, and baths to be so constructed as to prevent waste or the flow or return of impure matter into the mains, &c.

XXIII. Every cistern or other receptacle for water, and every closet, soil pan, and private bath which shall be supplied with water by any company, shall be so constructed and used as effectually to prevent the waste, misuse, or undue consumption of water, and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the company, or into any pipes connected or communicating therewith; and notwithstanding anything in "The Waterworks Clauses Act, 1847," or in this act contained, no company shall be bound to supply water into any cistern or other receptacle for water, closet, soil pan, or private bath, which shall not be so constructed and used.

Restricting communication with pipes of the company.

XXIV. No person shall make or lay down, or permit to be made or laid down, any pipe or other means or contrivance for taking, using, or obtaining water to communicate with any pipe or apparatus connected with any of the mains or pipes of any company without giving such notice, and except under such superintendence, and according to such direction as is provided by "The Waterworks Clauses Act, 1847," with respect to the communication pipes to be laid by the inhabitants.

Water may be cut off in certain cases.

XXV. If any person supplied with water by any company shall wilfully do or cause to be done any act, matter, or thing in contravention of the provisions of this act, or of the special act relating to such company, or of any act incorporated therewith, or shall wilfully omit or neglect to do any matter or thing which under such provisions ought to be done for the prevention of the waste, misuse, or undue consumption, or the contamination of the water of the company, it shall be lawful for the company to turn off the water supplied by them to such person, and to cease to supply such person with water, and also to recover from such person by action or suit in any court of competent jurisdiction the amount of any loss, damage, or injury which such company may sustain by means or in consequence of any such act, matter, or thing as aforesaid, or of any such wilful omission or neglect as aforesaid.

Regulations to be made, with approval of board of trade.

XXVI. It shall be lawful for any company from time to time, with the approval of the board of trade, to make such regulations as shall be necessary or expedient for the purpose of preventing the waste or misuse of water, and therein, amongst other things, to prescribe the size, nature, and strength of the pipes, cocks, cisterns, and other apparatus to be used, and to interdict any arrangements, and the use of any pipes, cocks, cisterns, or other apparatus, which may tend to such waste or misuse as aforesaid.

Parish officers, with consent of vestry, may require inhabitants to procure supply of water.

XXVII. If it appear to the churchwardens and overseers of the poor of any parish that any house in such parish is without a proper supply of water, and that an annual supply can be furnished thereto by the company at a rate not exceeding threepence per week, conformably with the scale of rates authorized to be charged by such company, after making the allowance of twenty per cent. hereinafter mentioned, the said churchwardens and overseers shall, with the consent of the vestry of the said parish, give

15 & 16 Vict. c. 84.

notice in writing to the owner or occupier of such house, requiring him within a time specified therein to obtain such supply, and do all such works as may be necessary for that purpose; and if such notice be not complied with the said churchwardens and overseers shall, with the consent aforesaid, do such works, and recover the expenses incurred from such owner, in like manner, and with the same remedies for nonpayment, as rates for the maintenance of the poor are by law recoverable in such parish; and the company shall, upon the requisition of the said churchwardens and overseers of the poor, supply with water such house or houses; and the rates for such supply of such house or houses, not exceeding in the whole threepence per week for any one such house, shall be due and payable by the said owner, and shall be recoverable by the company as if such owner had contracted with the company for the supply of such water, and upon such payment the company shall make an allowance of twenty per cent.; and for the purposes aforesaid the person for the time being receiving the rackrent of any such house as aforesaid, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such house were let at a rackrent, shall be deemed to be the owner of such house.

Short title.

XXVIII. In citing this act in other acts and in legal instruments it shall be enough to use the expression "The Metropolis Water Act, 1852."

Interpretation of terms.

XXIX. In the construction of this act the expression "company" shall mean and include any of the companies hereinafter enumerated, (that is to say,) the governor and company of the New River brought from Chadwell and Amwell to London, commonly called "The New River Company;" the Company of Proprietors of the East London Waterworks; the Southwark and Vauxhall Water Company; the West Middlesex Waterworks Company; the Lambeth Waterworks Company; the Governor and Company of Chelsea Waterworks; the Grand Junction Waterworks Company; the Company of Proprietors of the Kent Waterworks; and the Hampstead Waterworks Company; and also any other company, board, commissioner, association, person, or partnership, corporate or unincorporate, for the time being supplying the metropolis or any part thereof with water for domestic use; the expression "the special act" shall mean and include this act, and every and any act of parliament relating to the company referred to; and the expression "the metropolis" shall mean and include all places described or referred to in the schedule to this act.

The SCHEDULE above referred to.

All such places lying on the north side or left bank of the river Thames as are within the exterior boundaries of and are within the ambit formed by the parishes of Fulham, Hammersmith, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford-le-Bow, Bromley, Poplar, and Shadwell.

Such part of the parish of Chelsea as lies north of the said parish of Kensington.

And such parts and places lying on the south side or right bank of the said river as are within the exterior boundaries of and are within the ambit formed by the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting, Wandsworth, and Putney.

## 16 & 17 Vict. c. 41.

*An Act for making further Provisions with respect to Common Lodging Houses (a).* [4th August, 1853.]

16 & 17 Vict. c. 41.

Whereas it is expedient to extend the provisions of "The Common Lodging Houses Act, 1851:" (b) be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

I. This act may be cited for any purpose as "The Common Lodging Houses Act, 1853."

Recited act and this act to be as one.

II. The Common Lodging Houses Act, 1851, and this act shall be construed and executed as if they were one act.

All common lodging houses to be registered before being used, and to be kept only by registered keepers.

III. After three months after the passing of this act a person shall not keep a common lodging house or receive a lodger therein until the house have been inspected and approved for that purpose by some officer appointed in that behalf by the local authority, and have been registered as by the recited act provided; and a person shall not keep a common lodging house unless his name as the keeper thereof be entered in the register kept under the recited act: provided always, that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging house for not more than four weeks after his death without being registered as the keeper thereof.

Local authority may refuse to register houses if keepers do not produce certificate of character.

IV. The local authority may refuse to register as the keeper of a common lodging house a person who does not produce to the local authority a certificate of character in such form as the local authority shall direct, signed by three inhabitant householders of the parish respectively rated to the relief of the poor of the parish within which the lodging house is situate for property of the yearly rateable value of six pounds or upwards.

Evidence of register.

V. A copy of an entry made in a register kept under the recited act, certified by the person having the charge of the register to be a true copy, shall be received in all courts and before all justices and on all occasions whatsoever as evidence, and be sufficient proof of all things therein registered, without production of the register or of any document, act, or thing on which the entry is founded; and every person applying at a reasonable time shall be furnished gratis by the person having such charge with a certified copy of any such entry.

Power to local authority to require an additional supply of water to common lodging houses.

VI. Where it appears to the local authority that a common lodging house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the local authority may by notice in writing require the owner or keeper of the common lodging house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the local authority may remove the common lodging house from the register until it be complied with.

As to removal of sick persons from common lodging houses to hospitals, &c.

VII. When a person in a common lodging house is ill of fever or any infectious or contagious disease the local authority may cause such person to be removed to an hospital or infirmary, with the consent of the authorities thereof, and on the certificate of the medical officer of the parish, place, or district that the disease is infectious or contagious, and that the patient may be safely removed, and may, so far as the local authority think requisite for preventing the spread of disease, cause any clothes or bedding used by such person to be disinfected or destroyed, and may, if

(a) See "Common Lodging Houses," p. 82.
(b) See 14 & 15 Vict. c. 28, p. 307.

16 & 17 Vict. c. 41.

the local authority think fit, award to the owners of the clothes and bedding so disinfected or destroyed reasonable compensation for the injury or destruction thereof, and such compensation shall be paid to such owners by the proper officer of the parish or union in which the common lodging house is situate, out of the rates applicable to the relief of the poor of such parish, the amount of such compensation being first certified in writing upon a list of such articles.

Power to order reports from keepers of common lodging houses kept for beggars and vagrants.

VIII. The keeper of a common lodging house in which beggars or vagrants are received to lodge, or other person having the care or management thereof, shall from time to time, if required by any order of the local authority served on such keeper or person, report to the local authority, or to such person or persons as the said local authority shall direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules shall be furnished by the local authority to the persons so ordered to report, which schedules they shall fill up with the information required, and transmit to the local authority.

Power to town councils, &c., to remove causes of complaint certified under nuisances removal, &c., act.

IX. The town council, trustees, commissioners, guardians, and other officers and boards specified in the first section of the "Nuisances Removal and Diseases Prevention Act, 1848," (*a*) shall, on the receipt of a certificate of any police constable or of any officer appointed for the inspection of common lodging houses by the local authority, stating the existence in or about any common lodging house of any of the causes of complaint specified in that section, take all such proceedings as by that section are required to be taken by the town council, trustees, commissioners, guardians, and other officers and boards specified therein on a notice signed by two inhabitant householders, and in like manner as nearly as may be as if such notice had been given; and the local authority shall have the like powers, and shall take all such proceedings, on receipt of any such certificate of the existence of any such cause of complaint, as the town council, trustees, commissioners, guardians, and other officers or boards have and are empowered and required to take under the provisions of that act.

The Oxford commissioners and the Cambridge commissioners to act as the local authority under this act.

X. Provided always, notwithstanding any provision contained in this act, that within the city of Oxford, or the parts within the jurisdiction of the commissioners for amending certain mileways leading to Oxford, and making improvements in the University and city of Oxford, the suburbs thereof, and the adjoining parish of Saint Clement, (which commissioners are hereinafter called the Oxford commissioners,) the several powers and duties assigned by this act to any local authority shall, in so far as they are consistent with the laws under which the said Oxford commissioners act, be exercised by the said Oxford commissioners; and within the borough of Cambridge, or the parts within the jurisdiction of the commissioners acting under an act of the thirty-fourth year of the reign of king George the third, for amending and enlarging the powers of a former act of the same reign, for the better paving, cleansing, and lighting the town of Cambridge, for removing and preventing obstructions and annoyances, and for widening the streets, lanes, and other passages within that town, (which commissioners are hereinafter called the Cambridge commissioners,) the several powers and duties aforesaid shall, in so far as they are consistent with the laws under which the said Cambridge commissioners act, be exercised by the Cambridge commissioners.

As to offences against this act.

XI. The fourteenth section of the recited act extends to offences against any of the provisions of this act, so as to render the offenders liable to the penalties therein expressed, and any person convicted of any offence against the recited act and this act, or either of them, may, in default of payment of the penalty imposed, be imprisoned for any term not exceeding three months in the manner provided by law in that behalf.

(*a*) Sec 18 & 19 Vict. c. 121, *post*.

16 & 17 VICT. c. 41.

II. Where a keeper of a common lodging house, or a person having or ıg in the care or management of a common lodging house, is convicted third offence against the recited act and this act, or either of them, ustices before whom the conviction for such third offence takes place , if they think fit, adjudge that he shall not at any time within five s after the conviction, or within such shorter period, after the con- on as the justices think fit, keep or have or act in the care or agement of a common lodging house without the previous licence in ing of the local authority, which licence the local authority may hold or may grant on such terms and conditions as they think fit.

Conviction for third offence to disqualify persons from keeping common lodging house.

III. In a case in which there are not petty sessions for a place fifthly tioned in section three of the recited act, that act and this act may be uted within and for all and any part of such place by the justices of peace acting in petty sessions in the petty sessional division within ıh such place is comprised.

Acts may be executed by justices at petty sessions.

IV. Where in any place the recited act and this act are executed by ces in petty sessions, the expenses of and incident to the executing of recited act and this act with respect to such petty sessional division l be borne by and paid out of the rates for the relief of the poor of the ral parishes or other places comprised therein in which any common ing house is situate (except so far as there are other monies applicable ıe purpose), and the amount of such expenses shall be ascertained and ortioned by such justices, and shall be paid accordingly as they order.

As to expenses of executing act by justices.

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## 16 & 17 VICT. c. 62.

16 & 17 VICT. c. 62.

*Act to extend and continue an Act of the Twelfth Year of Her present Majesty, to prevent the spreading of contagious or infectious disorders among Sheep, Cattle, and other Animals* (a). [4th August, 1853.]

11 & 12 Vict. c. 107 (a).

THEREAS an act was passed in the twelfth year of the reign of her pre- Majesty (chapter one hundred and seven), for preventing until the day of September one thousand eight hundred and fifty, and to the of the then session of parliament, the spreading of contagious or in- ious diseases among sheep, cattle, and other animals; and whereas the act has by sundry acts been continued until the first day of September thousand eight hundred and fifty-three, and if parliament be then ng then further until the end of the then session of parliament: and reas it is expedient that the said act should be extended and further inued: be it therefore enacted by the Queen's most excellent Majesty, nd with the advice and consent of the Lords spiritual and temporal, Commons, in this present parliament assembled, and by the authority he same, as follows:

Penalty on persons bringing glandered horses, &c., into market, or turning them out on uninclosed land.

Any person bringing or attempting to bring for sale any horse or other nal into any market, fair, or other open or public place where animals commonly exposed for sale, knowing such horse or other animal to be cted with or labouring under the disease called glanders, and any per- turning out, keeping or depasturing any horse or other animal infected or labouring under any such disease in or upon any forest, chase, d, moor, marsh, heath, common, waste land, open field, road side, or r undivided or unenclosed land, shall on conviction of any such offence ıit and pay any sum not exceeding twenty pounds; and the said act i be read and construed as if this enactment were incorporated therein,

(a) See this act, p. 301.

16 & 17 Vict. c. 62

and all the provisions of the said act with respect to the penalties or forfeitures thereby imposed, and the recovery and application thereof, shall be applicable accordingly.

Recited act continued until 1st Sept, 1856, and end of then session.

II. The said act as extended by this act shall continue and be in force until the first day of September one thousand eight hundred and fifty-six, or if parliament be then sitting until the end of the then session of parliament.

## 16 & 17 Vict. c. 100.

16 & 17 Vict. c. 100.

*An Act further to extend and make compulsory the Practice of Vaccination* (*a*). [20th August, 1853.]

3 & 4 Vict. c. 29 (*b*).

4 & 5 Vict. c. 32 (*c*).

Whereas an act was passed in the fourth year of the reign of her present Majesty, intituled "An Act to extend the Practice of Vaccination:" and whereas an act was passed in the fifth year of the same reign, intituled "An Act to amend an Act to extend the Practice of Vaccination:" and whereas it is expedient that the practice of Vaccination should be still further extended: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Parishes or unions to be divided into districts for the purpose of vaccination, and places appointed for the performance of vaccination.

I. Within six weeks after the passing of this act the guardians of every parish or union, and the overseers of every parish in which relief of the poor shall not be administered by guardians, in England and Wales, shall, subject to the approval of the poor law board, divide such parish or union, if need be, into convenient districts for the purpose of affording increased facilities for the vaccination of the poor, and shall appoint a convenient place in each such district for the performance of such vaccination, and shall take the most effectual means for giving from time to time to all persons resident within such district due notice of the days and hours at which the medical officer or practitioner contracted with for such purpose will attend at such place to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which such medical officer or practitioner will attend at such place to inspect the progress of such vaccination in the persons so vaccinated.

Parents and guardians of children born after 1st August, 1853, to have such children vaccinated within three or four months after birth.

II. The father or mother of every child born in England or Wales after the first day of August in the year of our Lord one thousand eight hundred and fifty-three shall within three calendar months after the birth of the said child, or in the event of the death, illness, absence, or inability of the father and mother, then the person who shall have the care, nurture, or custody of the said child shall within four calendar months after the birth of such child, take or cause to be taken the said child to the medical officer or practitioner appointed in the union or parish in which the said child is resident according to the provisions of the first-recited act for the purpose of being vaccinated, unless he shall have been previously vaccinated by some duly qualified medical practitioner, and the vaccination duly certified, and the said medical officer or practitioner so appointed shall and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate the said child.

Children to be taken for inspection by medical officer on eighth day after the operation.

III. Upon the eighth day following the day on which any child has been vaccinated as aforesaid the father or mother, or other person having the care, nurture, or custody of the said child, shall again take or cause to be taken the said child to the medical officer or practitioner by whom the operation

(*a*) See "Vaccination," p. 185. (*b*) See 3 & 4 Vict. c. 29, p. 202.
(*c*) See 4 & 5 Vict. c. 32, p. 206.

was performed, in order that such medical officer or practitioner may ascertain by inspection the result of such operation.

Certificate of successful vaccination to be delivered.

IV. Upon and immediately after the successful vaccination of any child the medical officer or practitioner who shall have performed the operation shall deliver to the father or mother of the said child, or to the person who shall have the care, nurture, or custody of the said child, a certificate under his hand, according to the form of schedule hereinafter inserted, marked (A.), that the said child has been successfully vaccinated, and shall also transmit a duplicate of the said certificate to the registrar of births and deaths of the sub-district in which the operation was performed; and such certificate shall, without further proof, be admissible as evidence of the successful vaccination of such child in any information or complaint which shall be brought against the father or mother of the said child, or against the person who shall have had the care, nurture, or custody of such child as aforesaid, for noncompliance with the provisions of this act.

If the child be not in a fit state for vaccination, the medical officer to deliver a certificate to that effect, to be in force for two months.

V. If any medical officer or practitioner shall be of opinion that any child is not in a fit and proper state to be successfully vaccinated, he shall thereupon and immediately deliver, without fee or reward, to the father or mother of such child, or the person having the care, nurture, or custody of the said child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (B.), that the child is in an unfit state for successful vaccination, and such certificate shall remain in force for two calendar months from its delivery as aforesaid; and the father or mother of the said child, or the person having the care, nurture, or custody of the said child, shall, unless they shall within each succeeding period of two months have obtained from a medical officer or practitioner a renewal of such certificate, within two months next after the delivery of the said certificate as aforesaid, and if the said child be not vaccinated at or by the termination of such period of two months then during each succeeding period of two calendar months until such child has been successfully vaccinated, take or cause to be taken to the said medical officer or practitioner such child to be vaccinated by him, and if the said medical officer or practitioner deem the said child to be then in a fit and proper state for successful vaccination, he shall forthwith vaccinate it accordingly, and shall deliver to the father or mother of such child, or person having the care, nurture, or custody of such child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (A.), that such child has been successfully vaccinated; but if the said medical officer or practitioner be of opinion that the child is still in an unfit state for successful vaccination, then he shall again deliver to the father or mother of such child, or person having the care, nurture, or custody of the said child, a certificate under his hand, according to the said form of schedule (B.), that the child is still in an unfit state for successful vaccination; and the said medical officer or practitioner, so long as such child remains in an unfit state for vaccination, and unvaccinated, shall at the expiration of every succeeding period of two calendar months deliver, if required, to the said father or mother of such child, or person having the care, nurture, or custody of such child, a fresh certificate under his hand according to the said form of schedule; and the production of such certificate shall be a sufficient defence against any complaint which shall be brought against the said father or mother, or person having the care, nurture, or custody of such child, for noncompliance with the provisions of this act.

Rates of payment for vaccination in contracts by guardians or overseers.

VI. In all contracts to be hereafter made under the provisions of the first-recited act by any guardians or overseers of the poor with any medical officers or practitioners for the vaccination of the persons resident in their respective unions or parishes the sums contracted to be paid shall not be less than the following rates; that is to say, for every person successfully vaccinated at the residence of such medical officer or practitioner, or within two miles therefrom by the nearest public road, a sum not less than one

16 & 17 Vict. c. 100.

shilling and sixpence, and for any person successfully vaccinated at any place more than two miles distant from such residence any sum not less than two shillings and sixpence.

Child's incapacity to receive the vaccine disease to be certified.

VII. In the event of any medical practitioner acting under the provisions of this act being of opinion that any child that has been vaccinated by him is insusceptible of the vaccine disease, he shall deliver to the father or mother, or person having the care, nurture, or custody of such child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (D.); and the production of such certificate shall be a sufficient defence against any complaint which may be brought against the said father, mother, or person having the care, nurture, or custody of such child for noncompliance with the provisions of this act.

Registrars of births and deaths to keep a registrar of cases of successful vaccination, of which searches and extracts may be made.

VIII. The registrar of births and deaths in every sub-district in which the operation has been performed shall keep a register of the persons of whose successful vaccination a certificate shall have been transmitted to him as above provided by the said medical officer or practitioner, and shall at all reasonable times allow searches to be made of any such register book in his keeping, and shall give a copy, certified under his hand, of any entry or entries in the same, on payment of the fee of one shilling for each search, and sixpence for each certificate.

Notice to be given of the requirement of vaccination, and on failure of parent or guardian to comply therewith, penalty.

IX. The registrar of births and deaths in every sub-district shall, on or within seven days after the registration of the birth of any child not already vaccinated within the said sub-district, give notice in writing in manner hereinafter directed, and according to the form of schedule hereinafter inserted, marked (C.), to the father or mother of such child, or in the event of the death, illness, absence, or inability from sickness or otherwise of the father and mother, then to the person upon whom the care, nurture, or custody of such child shall have devolved, that it is the duty of such father or mother, or person having the care, nurture, or custody of such child as aforesaid, to take care that the said child shall be vaccinated in the manner directed by this act, and shall together therewith deliver to such person a notice of the days, hours, and places within the district of such registrar at which the medical officer or practitioner as hereinbefore provided will attend for the purpose of vaccination; and if after such notice the father or mother of the said child, or the person so having as aforesaid the care, nurture, or custody of the said child, shall not cause such child to be vaccinated, or shall not on the eighth day after the vaccination has been performed take or cause to be taken such child for inspection according to the provisions in this act respectively contained, then such father or mother, or person having the care, nurture, or custody of such child as aforesaid, so offending, shall forfeit a sum not exceeding twenty shillings.

Fee to registrar.

X. A fee of threepence shall be paid to such registrar for each child vaccinated in respect of which he shall have performed the duties required in this act; and he shall keep a book, to be provided as hereinafter directed, containing a minute of his having duly given such notice as hereinbefore directed; and the said fee shall be payable in the same manner as the fee now payable to such registrar for registering the birth of such child as aforesaid is paid.

Registrar general to provide books and forms for carrying out the provisions of this act.

XI. The registrar-general for England and Wales shall and he is empowered and directed, within two months after the passing of this act, to frame and provide such books, forms, and regulations as he may deem requisite for carrying into full effect the provisions of this act, *and shall transmit the same to the superintendent registrars of each district in England and Wales, who shall deliver to the medical officers so appointed as aforesaid, and other duly qualified medical practitioners in the said district, such of the said books, forms, and regulations as they may require for the performance of the duties imposed upon them by this act; and the expenses to be incurred by the registrar-general under the provisions of this act shall be defrayed in the same manner as the expenses*

*act of the sixth and seventh years of King William the Fourth, ighty-five* (*a*). 16 & 17 Vict. c. 100.

ll penalties by this act imposed shall be recoverable before any es of the peace for the county, city, borough, or place where the ay have been committed; and the provisions of the act of the ar of her present Majesty, chapter forty-three, shall be appli- he recovery of such penalties (*b*). Recovery of penalties.

All penalties recovered under this act shall be applied in aid of applicable to the relief of the poor in the parish or place main- s own poor wherein the offence may have been committed. Application of penalties.

SCHEDULES referred to by this act.

SCHEDULE (A.)

undersigned, hereby certify, that the child of of the parish of in the county of has been lly vaccinated by me.

this day of 185 .

(Signed) *A.B.*

Surgeon of the union *or* parish (*or other Medical Practitioner, as the case may be*).

SCHEDULE (B.)

undersigned, hereby certify, that I am of opinion that of of the parish of in the county of is not now in a fit and proper state to be successfully vacci- ıd I do hereby postpone the vaccination until the day of

this day of 185 .

(Signed) *A.B.*

Surgeon of the union *or* parish (*or other Medical Practitioner, as the case may be*).

SCHEDULE (C.)

undersigned, hereby give you notice, and require you to have :cinated within three (or four, *as the case may be, according to the ction of this act*,) months after the birth, pursuant to the pro- nd directions of the act of the 16 Victoria, cap. . As witness this day of 185 .

*J.B.*

Registrar of births and deaths for the sub-district (*as the case may be*).

SCHEDULE (D.)

undersigned, hereby certify, that I am of opinion, that of of the parish of in the county of is tible of the vaccine disease.

this day of 18 .

(Signed) *A.B.*

Surgeon of the union *or* parish of (*or other Medical Practitioner, as the case may be*).

(*a*) See 21 Vict. c. 25, *post*.

(*b*) See note, p. 55.

## 16 & 17 Vict. c. 128.

16 & 17 Vict. c. 128.

*An Act to abate the Nuisance arising from the Smoke of Furnaces in the Metropolis and from Steam Vessels above London Bridge* (*a*). [20th August, 1853.]

Whereas it is expedient to abate the nuisance arising from the smoke of furnaces in the metropolis and from steam vessels above London-bridge: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Furnaces in the metropolis to consume their own smoke.

I From and after the first day of August one thousand eight hundred and fifty-four every furnace employed or to be employed in the metropolis in the working of engines by steam, and every furnace employed or to be employed in any mill, factory, printing house, dyehouse, iron foundry, glasshouse, distillery, brewhouse, sugar refinery, bakehouse, gasworks, waterworks, or other buildings used for the purpose of trade or manufacture within the metropolis (although a steam engine be not used or employed therein), shall in all cases be constructed or altered so as to consume or burn the smoke arising from such furnace; and if any person shall, after the first day of August one thousand eight hundred and fifty-four within the metropolis use any such furnace which shall not be constructed so as to consume or burn its own smoke, or shall so negligently use any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, or shall carry on any trade or business which shall occasion any noxious or offensive effluvia (*b*), or otherwise annoy the neighbourhood or inhabitants, without using the best practicable means for preventing or counteracting such smoke or other annoyance, every person so offending, being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier, shall, upon a summary conviction for such offence before any justice or justices, forfeit and pay a sum not more than five pounds nor less than forty shillings, and upon a second conviction for such offence the sum of ten pounds, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction: provided always, that nothing in this act shall extend or apply to any glass works or pottery works established and existing within the metropolis before the passing of this act, with the exception however of all steam engine furnaces and slip kiln furnaces employed in and belonging to such works respectively, to which furnaces the provisions of this act shall extend and apply.

Steam vessels on the Thames above London Bridge to consume their own smoke.

II. From and after the first day of August one thousand eight hundred and fifty-four every steam engine and furnace used in the working of any steam vessel on the river Thames above London-bridge shall be constructed so as to consume the smoke arising from such engine and furnace; and if after the said first day of August one thousand eight hundred and fifty-four any steam engine or furnace by which any steam vessel shall be worked while the same shall be above (*c*) London-bridge shall not be constructed so as to consume or burn its own smoke, or such steam engine or furnace which shall be so constructed shall be wilfully or negligently used so that the smoke arising therefrom shall not be effectually consumed or burnt, the owner or master or other person having charge of such vessel shall, on a summary conviction for such offence before any justice or justices, forfeit and pay any sum not greater than five pounds nor less than forty shillings,

(*a*) See "Prevention of Smoke," p. 62.
(*b*) See 19 & 20 Vict. c. 107, s. 3, *post*. (*c*) *Ibid.*, s. 1.

and upon a second conviction for such offence a sum of ten pounds, and upon every other subsequent conviction for such offence a sum double the amount of the penalty imposed for the last preceding conviction.

Penalty not to attach where only fuel not emitting smoke is used.

III. Provided always, that the words "consume or burn the smoke" shall not be held in all cases to mean "consume or burn all the smoke," and that the justice or justices before whom any person shall be summoned may remit the penalties enacted by this act if he or they shall be of opinion that such person has so constructed or altered his furnace as to consume or burn as far as possible all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burnt as far as possible the smoke arising from such furnace.

Constables may be empowered to enter and inspect furnaces and steam engines.

IV. If the owner or occupier of any premises or the commander of any steam vessel to which the provisions of this act shall apply shall refuse to allow their premises or steam vessel to be inspected by a person duly authorised by the commissioners of police for that purpose, it shall be lawful for any constable authorised by warrant under the hand of one of her Majesty's principal secretaries of state, or (in the metropolitan police district) by the order in writing of the commissioners of police of the metropolis, or (in the city of London or liberties thereof) by the order in writing of the commissioner of police of the said city and liberties, with or without any assistant to enter into and upon any building or premises in the metropolis in which any furnace may be, or in which such noxious trade or business may be carried on, or into any steam vessel on the river Thames between London-bridge and Richmond-bridge, and to examine into the construction of such furnace, into the manner of carrying on such trade or business, or into the construction of the steam engine and furnace by which such vessel shall be worked; and any person obstructing any such constable or his assistant in the execution of any such warrant or order shall, upon a summary conviction for such offence before any justice or justices, forfeit and pay any sum not exceeding twenty pounds.

No information to be laid except by authority of secretary of state or commissioners of police of metropolis or city of London.

V. Provided always, that no information shall be laid against any person for the recovery of any penalty under this act, except by the authority of one of her Majesty's principal secretaries of state, or in the metropolitan police district by the commissioners of police of the metropolis, or in the city of London or liberties thereof by the commissioner of police of the said city and liberties respectively, acting under the orders and directions of such secretary of state.

Definition of metropolis.

VI. In this act the expression "the metropolis" shall have the same meaning and construction as is assigned to such expression for the purposes of the act of the last session of parliament, chapter eighty-five, "to amend the laws concerning the burial of the dead in the metropolis" (*a*).

15 & 16 Vict. c. 85.

Not to affect 14 & 15 Vict. c. 75, or 16 & 17 Vict. c. cxli.

VII. Nothing in this act shall be held to alter or repeal any of the provisions of the city of London Sewers Act, 1851, or of the Whitechapel Improvement Act, 1853.

Penalties be recoverable under 11 & 12 Vict. c. 43.

VIII. All penalties by this act imposed shall be recoverable according to the provisions of the act of the twelfth year of her present Majesty, chapter forty-three (*b*).

(*a*) The schedule to the act referred to includes Fulham, Hammersmith, Willesden, Stoke Newington, Hackney, Stratford, Bromley, Woolwich, Charlton, Plumstead, Hatcham, Streatham, Tooting, Wandsworth, and Putney.

(*b*) See note, p. 55.

## 17 & 18 Vict. c. 114.

17 & 18 Vict. c. 114.

*An Act to extend the Rights enjoyed by the Graduates of the Universities of Oxford and Cambridge in respect to the Practice of Physic to the Graduates of the University of London* (a). [11th August, 1854.]

Whereas a body politic and corporate, by the name of the University of London, has been constituted by the royal charter of her present Majesty, with power after examination to confer the several degrees of bachelor of medicine and doctor of medicine: and whereas it is expedient that such and the same privileges relating to the practice of physic as are enjoyed by graduates in medicine of either of the universities of Oxford and Cambridge, by virtue of their degrees, or under any authority or licence now conferred upon them by either of the said last-mentioned universities, should be enjoyed by the graduates in medicine of the University of London: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Graduates in medicine of the university of London to be entitled to practise physic in the same manner as graduates of the universities of Oxford and Cambridge.

I. Every bachelor of medicine and doctor of medicine of the said university of London shall by virtue of his degree, and without the necessity of undergoing any further examination, or of obtaining any further authority or licence, be forthwith entitled to practise physic, as fully, effectually, and extensively in all respects as any bachelor of medicine or doctor of medicine of either of the said universities of Oxford and Cambridge is entitled to practise by virtue of his degree or under any power, licence, or authority now conferred by either of the said last-mentioned universities: provided always, that the privileges hereby conferred shall not be construed so as to extend to the practice of surgery, pharmacy, or midwifery.

Graduates in medicine of the university of London indemnified for having acted without having obtained authority from universities of Oxford or Cambridge.

II. And whereas it is apprehended that divers graduates in medicine of the said university of London are or may become exposed to divers forfeitures, pains, or penalties by reason of their having practised physic in all or some or one of its branches, or of their having done acts as or under the description of physicians, or practitioners of physic, in all or some or one of its branches, without any other qualification for so doing than their having studied for and obtained the medical degrees of the last-mentioned university, and in particular it is apprehended that under the act passed in the session of parliament held in the sixteenth and seventeenth years of the reign of her present Majesty, chapter ninety-six, and the Lunatic Asylums Act, 1853, any graduate of the university of London practising as a physician, if not otherwise answering to the definition of a physician set forth in the interpretation clauses to such acts, who may have signed any certificates under those acts or either of them, in which he shall have been described as a physician, is liable to be indicted for a misdemeanor: be it enacted, that all such graduates in medicine of the said university of London who have so practised physic, or have so done any such act, or signed any such certificate as aforesaid, shall be indemnified, freed, and discharged from all such forfeitures, pains, penalties, and disabilities as they would or might have been exempt from had they taken their several degrees at or obtained authority or licence to practise from either of the said universities of Oxford and Cambridge, and that all such acts and certificates heretofore done or signed by any graduate in medicine of the said university of London shall be deemed to all intents and purposes as

(a) See "Medical Practitioners," p. 175.

lid and effectual as if this act had passed previously to the doing or ning such acts and certificates respectively. 17 & 18 Vict. c. 114.

III. This act may be cited as "The University of London Medical raduates Act, 1854." Short title.

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## 18 & 19 Vict. c. 116.

*An Act for the better Prevention of Diseases* (*a*). [14th August, 1855.] 18 & 19 Vict. c. 116.

Whereas the provisions of "The Nuisances Removal and Diseases Prevention Act, 1848," amended by "The Nuisances Removal and Diseases evention Amendment Act, 1849," in so far as the same relate to the evention or mitigation of epidemic, endemic, or contagious diseases, are fective, and it is expedient to substitute other provisions more effectual that behalf: be it therefore enacted by the Queen's most excellent ajesty, by and with the advice and consent of the Lords spiritual and mporal, and Commons, in this present parliament assembled, and by the thority of the same, as follows:

I. This act may be cited for all purposes as the "Diseases Prevention t, 1855." Short title.

II. *The local authority for executing this act shall be the local authority ting in execution of any general act in force for the time being for the moval of nuisances* (*b*). *Local authority for execution of act.*

III. *The expenses incurred in execution of this act shall be borne out the rates or funds administered by such local authority, under the provisions and for the purposes of any such general act as is referred to in the ceding section* (*b*). *Expenses of act.*

IV. The local authority and their officers shall have power of entry for e purposes of this act, and for executing or superintending the execution the regulations and directions of the *general board* issued under this act. Power of entry.

V. Whenever any part of England appears to be threatened with or is ected by any formidable epidemic, endemic, or contagious disease, the rds and others of her Majesty's most honourable privy council, or any ree or more of them, (the lord president of the council or one of her ajesty's principal secretaries of state being one,) may, by order or orders be by them from time to time made, direct that the provisions herein ntained for the prevention of diseases be put in force in England, or in ch parts thereof as in such order or orders respectively may be expressed, d may from time to time, as to all or any of the parts to which any such der or orders extend, and in like manner, revoke or renew any such der; and, subject to revocation and renewal as aforesaid, every such der shall be in force for six calendar months, or for such shorter period in such order shall be expressed; and every such order of her Majesty's ivy council, or of any members thereof, as aforesaid, shall be certified nder the hand of the clerk in ordinary of her Majesty's privy council, and all be published in the London Gazette; and such publication shall be nclusive evidence of such order, to all intents and purposes. Power to privy council to issue orders that provisions herein contained for prevention of diseases may be put in force.

VI. From time to time after the issuing of any such order as aforesaid, nd whilst the same continues in force, *the general board of health* (*c*) ay issue directions and regulations, as the said board think fit—

For the speedy interment of the dead:

For house to house visitation:

For the dispensing of medicines, guarding against the spread of disease, Power to general board of health to issue regulations to carry out such provisions.

(*a*) See "Prevention of Diseases," p. 163.
(*b*) See 23 & 24 Vict. c. 77, s. 10, *post*.
(*c*) Now the Privy Council. See 21 & 22 Vict. c. 97, s. 1, *post*.

18 & 19 Vict. c. 116.

and affording to persons afflicted by or threatened with such epidemic, endemic, or contagious diseases such medical aid and such accommodation as may be required:

Local extent and duration of regulations of general board.

And from time to time, in like manner, may revoke, renew, and alter any such directions and regulations as to the said *board* appear expedient, to extend to all parts in which the provisions of this act for the prevention of disease shall for the time being be put in force under such orders as aforesaid, unless such directions and regulations be expressly confined to some of such parts, and then to such parts as therein are specified; and (subject to the power of revocation and alteration herein contained) such directions and regulations shall continue in force so long as the said provisions of this act shall, under such order, be applicable to the same parts.

Publication of such regulations.

VII. Every such direction and regulation as aforesaid, when issued, shall be published in the London Gazette, and the gazette in which such direction or regulation was published shall be conclusive evidence of the direction or regulation so published, to all intents and purposes.

The local authority to see to the execution of such regulations, &c.; and may direct prosecutions for violating the same.

VIII. The local authority shall superintend and see to the execution of such directions and regulations, and shall appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things, as may be necessary for mitigating such disease, or for superintending or aiding in the execution of such directions and regulations, or for executing the same, as the case may require.

IX. The local authority may from time to time direct any prosecutions or legal proceedings for or in respect of the wilful violation or neglect of any such direction and regulation.

Orders of council, directions, and regulations to be laid before parliament.

X. Every order of her Majesty's privy council, and every direction and regulation *of the general board of health* (*a*), under this act, shall be laid before both houses of parliament, forthwith upon the issuing thereof, if parliament be then sitting, and if not, then within fourteen days next after the commencement of the then next session of parliament.

Order in council may extend to parts and arms of the sea.

XI. Orders in council issued in pursuance of this act for putting in force the provisions for the prevention of disease in the said nuisances removal and diseases prevention acts contained, in Great Britain, may extend to parts and arms of the sea lying within the jurisdiction of the admiralty; and the *board of health* (*a*) for England may issue under this act directions and regulations for cleansing, purifying, ventilating, and disinfecting, and providing medical aid and accommodation, and preventing disease in ships and vessels, as well upon arms and parts of the sea aforesaid as upon inland waters.

Medical officer of unions and others entitled to costs of attending sick on board vessels, when required by orders of general board of health.

XII. Whenever, in compliance with any regulation *of the general board of health* (*a*), which they may be empowered to make under this act, any medical officer appointed under and by virtue of the laws for the time being for the relief of the poor shall perform any medical service on board of any vessel, such medical officer shall be entitled to charge extra for any such service, at the general rate of his allowance for his services for the union or place for which he is appointed, and such charges shall be payable by the captain of the vessel, on behalf of the owners, together with any reasonable expenses for the treatment of the sick; and if such services shall be rendered by any medical practitioner who is not a union or parish officer, he shall be entitled to charges for any service rendered on board, with extra remuneration on account of distance, at the same rate as those which he is in the habit of receiving from private patients of the class of those attended and treated on shipboard, to be paid as aforesaid; and in case of dispute in respect of such charges, such dispute may, where the charges do not exceed twenty pounds, be determined summarily, at the place where the dispute arises, as in case of seamen's wages not exceeding fifty pounds, according to the provisions of the law in that behalf for the

(*a*) Sec 21 & 22 Vict. c. 97, s. 1, *post*.

time being in force; and any justice before whom complaint is made shall determine summarily as to the amount which is reasonable, according to the accustomed rate of charge within the place for attendance on patients of the like class or condition as those in respect of whom the charge is made. 18 & 19 Vict. c. 116.

XIII. *The directions and regulations of the general board of health under this enactment shall be under the seal of the said board, and the hand of the president or two or more members thereof; and any copy of such regulations purporting to bear such seal and signature, whether the said signature and seal be respectively impressed and written, or printed only, shall be evidence in all proceedings in which such regulations may come in question* (a). *Authentication of directions and regulations of general board of health.*

XIV. Whoever wilfully obstructs any person acting under the authority or employed in the execution of this act, and whosoever wilfully violates any direction or regulation issued *by the general board of health* (a) as aforesaid, shall be liable for every such offence to a penalty not exceeding five pounds, to be appropriated in or towards the defraying the expenses of executing this act. Penalty for obstructing execution of act.

XV. The provisions of any general act in force for the removal of nuisances, with regard to the service of notices, the proof of orders or resolutions of the local authority, and the recovery of penalties, shall extend and apply to this act. Certain provisions of nuisances removal act to apply to this act.

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## 18 & 19 Vict. c. 120.

*An Act for the better Local Management of the Metropolis.* [14th August, 1855.] 18 & 19 Vict. c. 120.

Whereas it is expedient that provision should be made for the better local management of the metropolis in respect of the sewerage and drainage, and the paving, cleansing, lighting, and improvements thereof: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. The act of the session holden in the first and second years of King William the Fourth, chapter sixty, "For the better Regulation of Vestries, and for the Appointment of Auditors of Accounts in certain Parishes of England and Wales," shall be repealed, from and after the passing of this act, so far as regards any parish mentioned in either of the schedules (A.) and (B.) to this act: provided always, that the vestry and auditors already elected for any such parish under the said act shall continue to be such vestry and auditors until the first election of vestrymen and auditors for such parish under this act has taken place, but no longer; and the provisions of the said act of King William the Fourth shall continue applicable to every such vestry and to their proceedings, and the books in which the same are entered, and to such auditors and their proceedings accordingly. *Election of vestries and auditors in parishes in schedules* (A.) *and* (B.). 1 & 2 W. 4, c. 60, repealed so far as regards parishes in schedules (A.) and (B.).

II. The vestry in every parish mentioned in either of the schedules (A.) and (B.) to this act shall consist of a certain number of persons qualified and elected as herein provided; (that is to say,) eighteen vestrymen for every parish in which the number of rated householders shall not exceed one thousand; and six additional vestrymen, that is, twenty-four vestrymen, for every parish in which the number of rated householders shall exceed one thousand; and twelve additional vestrymen, that is, thirty-six vestrymen, for every parish in which the number of rated householders shall exceed two thousand; and so on at the proportion of twelve additional Vestries in parishes named in either of the schedules (A.) and (B.) to consist of not less than 18 or more than 120 persons qualified

(a) See 21 & 22 Vict. c. 97, s. 1, *post*.

18 & 19 Vict. c. 120.

vestrymen for every thousand rated householders: provided always, that in no case the number of vestrymen shall exceed one hundred and twenty: provided also, that the incumbent and churchwardens of each such parish shall constitute a part of the vestry, and shall vote therein, in addition to the elected vestrymen: provided also, that every district rector now constituting in any such parish a part of the vestry thereof shall continue to constitute a part of the vestry thereof under this act: provided also, that where in any parish the whole number of persons qualified to be vestrymen shall not amount to eighteen, the vestry thereof shall consist of so many persons as are so qualified, anything in this act to the contrary notwithstanding.

and elected as after provided;

Such parishes with more than 2000 rated householders to be divided into wards.

III. Each of the said parishes which at the time of the passing of this act contains more than two thousand rated householders shall be divided into wards; and it shall be lawful for such person or persons as may be appointed for this purpose as herein provided to determine and set out, on or before the tenth day of October next, the number, extent, limits, and boundary lines of such wards, but so nevertheless that no ward shall contain less than five hundred rated householders, and that the whole number of wards in any parish shall not exceed eight; and the person or persons setting out such wards in any parish shall apportion among the several wards the number of vestrymen to be elected for such parish, and shall, in assigning the number of vestrymen to each ward, have regard, as far as in his or their judgment it is practicable, as well to the number of persons rated to the relief of the poor in each ward as to the aggregate amount of the sums at which all such persons are rated; and the number of vestrymen assigned to each ward shall be a number divisible by three; and a copy of the particulars of such division and apportionment shall be forthwith transmitted to one of her Majesty's principal secretaries of state, and also to the vestry clerk of the parish to which such division and apportionment relate; and if her Majesty, by the advice of her privy council, approve of such division and apportionment, the particulars thereof shall be published in the London Gazette; and the parish shall, after such publication, be deemed to be divided into such wards so determined and set out, and such division shall continue and be in force until the same be altered as herein provided; and the number of vestrymen assigned to each ward shall be the number to be elected for such ward until altered as aforesaid: provided always, that if her Majesty, by advice of her privy council, do not approve such division and apportionment, such publication as aforesaid shall nevertheless be made, and such division and apportionment be in force for the purpose of any election under the provisions of this act, until such time as her Majesty, by advice of her privy council, upon further information and report from any such person or persons, definitively approve the division of such parish into wards, and of the number of vestrymen assigned to each ward in manner hereinbefore mentioned: provided also, that where any parish is already divided into wards under any local act such parish shall be deemed to be divided into such wards for the purposes of this act, without any division of such parish into wards being made as hereinbefore provided, but the number of vestrymen to be elected for such parish shall be apportioned as aforesaid among the wards of such parish by such person or persons as may be appointed for that purpose as herein provided.

Power to secretary of state to appoint persons to set out the wards, and apportion number of vestrymen to be elected.

IV. One of her Majesty's principal secretaries of state shall, as soon as conveniently may be after the passing of this act, appoint not more than four fit persons, the names of such persons to be published in the London Gazette, to set out the wards into which the said parishes are by this act directed to be divided, and to apportion the number of vestrymen to be elected for such parishes respectively among such wards, and also to apportion the number of vestrymen to be elected for any parish already divided into wards as aforesaid among such wards; and any one or more of such

rsons may be appointed to act as aforesaid separately from any other or hers of them as such secretary of state may see fit; and such secretary of ate shall, in case circumstances appear to him so to require, appoint any her fit person or persons in the place of or in addition to any such person persons originally appointed under this provision; and every person pointed to set out such wards shall be paid at a rate not exceeding the m of five guineas for every day that he is employed by virtue of such pointment, and the amount payable to him in respect of such employ- nt in each parish shall be determined and certified by the commissioners her Majesty's treasury, and the amount so certified shall be paid out of e poor rates of the parish.

If relative amounts of population of wards vary in any future census, the numbers of vestrymen may be altered.

V. When at any time, upon any account taken of the population by the thority of parliament, the relative numbers of the inhabited houses in e several wards of any parish divided into wards as aforesaid are found have varied from those shown by the last previous census, it shall be wful for the metropolitan board of works, upon the application of the stry or any ratepayers of such parish, to alter the number of vestrymen signed to such wards or any of them, but so that the number of vestry- n assigned to each ward shall be a number divisible by three.

Qualification of vestrymen.

VI. The vestry elected under this act in any parish shall consist of rsons rated or assessed to the relief of the poor upon a rental of not less an forty pounds per annum (*a*); and no person shall be capable of acting being elected as one of such vestry for any parish unless he be the cupier of a house, lands, tenements, or hereditaments in such parish, d be rated or assessed as aforesaid upon such rental as aforesaid within ch parish: provided always, that in any parish in which the number of or rate assessments at forty pounds or upwards does not exceed one-sixth the whole number of such assessments, it shall not be necessary, in order qualify a person to be a vestryman, that the amount of rental upon hich he is rated or assessed as aforesaid exceed twenty-five pounds: pro- ded also, that the joint occupation of any such premises as aforesaid, and joint rating in respect thereof, shall be sufficient to qualify each joint cupier in case the amount of rental on which all such occupiers are jointly ted will, when divided by the number of occupiers, give for each such cupier a sum not less than the amount hereinbefore required.

As to the first election of vestry- men under this act.

VII. The first election of vestrymen under this act in every parish shall holden in the month of November next after the passing of this act, and tween the fifth and twenty-first days of that month, and the day on hich such election shall commence shall be appointed by the church- ardens of the parish, and twenty-one days previously to the day of ection notice of such election shall be given in manner hereinafter directed ncerning notice of election of vestrymen and auditors, and the next such lection shall take place on such day in the month of May in the year one ousand eight hundred and fifty-seven as the vestry shall appoint, and very subsequent election shall take place annually in the month of May in very year as the vestry appoint.

The full number of vestrymen to be chosen at first election, and existing vestries superseded.

VIII. At the first such election of vestrymen as aforesaid for any parish e full number of elective vestrymen of which such vestry is to consist as ereinbefore mentioned shall be elected, and such vestrymen, with such ther persons as hereinbefore mentioned, shall forthwith be deemed to con- itute the vestry of such parish, and shall supersede any existing vestry erein, and exercise the powers and privileges held by such existing stry, save as in this act otherwise provided; and the authority of such stry may be pleaded before any justice or justices of the peace, or in any urt of law in regard to all parochial property or monies due, or holdings contracts, or other documents of the like nature, under the control or in e keeping of such existing vestry; and all parish officers or boards shall

(*a*) See 19 & 20 Vict. c. 112, s. 8, *post*.

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account to them in like manner as they are by law liable to account to such existing vestry.

As to the term of office of vestrymen elected at first election, and as to future elections.

IX. One third of the vestrymen first elected under this act in any parish, or, where such parish is divided into wards under this act, in each ward of such parish, shall go out of office at the time appointed for the election of vestrymen in the year one thousand eight hundred and fifty-seven, one other third of them at the time appointed for such election in the year one thousand eight hundred and fifty-eight, and the remaining third at the time appointed for such election in the year one thousand eight hundred and fifty-nine; and the vestry shall, at some meeting before the time of the election in one thousand eight hundred and fifty-seven, determine by lot which of the members first elected shall constitute the one-third to go out of office in the years one thousand eight hundred and fifty-seven and one thousand eight hundred and fifty-eight respectively; and all members from time to time elected at the annual elections after the first election shall go out of office at the time appointed for the annual election in the third following year, except such members as are elected to supply vacancies occasioned otherwise than by effluxion of time; and such last-mentioned members shall go out of office at the respective times when the terms of office of the members in whose places they are respectively elected would have expired by effluxion of time.

Vacancies to be filled up at annual elections.

X. At every election of vestrymen under this act, except the first, for any parish or any ward of any parish, the parishioners of such parish entitled to vote in such election shall elect as many vestrymen as there are vacancies in the vestry, or among the vestrymen elected for such ward, whether such vacancies be occasioned by the expiration of the term of office, or by death or otherwise.

Appointment of auditors of accounts for parishes in schedules (A.) and (B.).

XI. For every parish mentioned in either of the schedules (A.) and (B.) to this act there shall be elected such number as hereinafter mentioned of the ratepayers of the parish who have signified in writing their assent to serve to be auditors of accounts, which auditors shall be so elected at the same times and in the same manner as members of the vestry; and the number of ratepayers so to be elected auditors in any parish not divided into wards under this act shall be five, and the number of ratepayers so to be elected auditors in any parish which is divided into wards shall be the same as the number of wards, one auditor being elected in each ward: provided always, that where the number of wards into which any parish is divided exceeds five, the vestry of such parish shall at their first meeting after the election of auditors as aforesaid, in any year, elect by ballot from among such auditors five of them, and the five persons so elected by ballot shall be the auditors for such parish exclusively of any other person or persons who may have been elected an auditor or auditors for such parish under the provisions herein contained; and a list of the five persons so elected by the vestry shall be forthwith published by the churchwardens in the parish as herein provided: provided also, that no person shall be eligible to fill the office of auditor of accounts who is not qualified to fill the office of vestryman for the parish; but no person shall be eligible to fill the office of auditor who is a member of the vestry; and if any person be chosen to be both a member of the vestry and auditor of accounts he shall be incapable of acting as a vestryman.

As to the term of office of auditors.

XII. The auditors first elected under this act in any parish as aforesaid shall go out of office at the time appointed for the election of vestrymen and auditors in the year one thousand eight hundred and fifty-seven, and the auditors then elected and to be thereafter elected shall go out of office at the election of vestrymen and auditors in the year next following their election.

Notice of elections.

XIII. The churchwardens of every parish mentioned in either of the said schedules (A.) and (B.), which is not divided into wards, shall, on some Sunday at least twenty-one days previously to the day of annual

ection of vestrymen, cause to be published in such parish as herein pro- 18 & 19 Vict. c. 120.
ded a notice according to the following form:

"Parish of [*here insert name of parish*].

"The parishioners duly qualified according to the provisions of the act the session holden in the eighteenth and nineteenth years of the reign Queen Victoria, intituled 'An Act' [*here insert the title of the act*], are ereby required to meet at on the day of , con-rmably to the provisions of the said act, and then and there to consider and elect fit and proper persons to be vestrymen and auditors of accounts the parish of for the ensuing year [*the words* 'for the ensuing ar' *to be omitted in the notice of the first election*]; that is to say,

" Members of the vestry,
" Auditors of accounts."

And the churchwardens of every such parish as aforesaid which is divided to wards shall at the time aforesaid cause to be published as herein pro-ded, in each ward of the parish, a notice according to the following rm:

"Parish of , ward of [*inserting the parish and ward*].

"The parishioners duly qualified according to the provisions of the act parliament of the session holden in the eighteenth and nineteenth years the reign of Queen Victoria, intituled 'An Act' [*here insert the title of is act*], are hereby required to meet at on the day , conformably to the provisions of the said act, and then and ere to consider of and elect fit and proper persons to be strymen and an auditor of accounts of the parish of for the ard of for the ensuing year [*the words* 'for the ensuing year' *be omitted in the notice of the first election*]."

XIV. Where any parish is divided into wards, the churchwardens, three ear days at least before the day of election, shall appoint in writing under eir hands a person to preside at such election as aforesaid in each of the id wards, except any ward in which one of the churchwardens shall eside, and notify such appointment to the vestry clerk of the parish. Churchwardens to appoint persons to preside at ward elections.

XV. The rate collectors, or persons appointed by them, shall attend the urchwardens and persons presiding at elections under this act, and in-ectors of votes, to assist in ascertaining that the persons presenting emselves to vote are parishioners rated to the relief of the poor in the rish, or the respective wards thereof, and duly qualified to vote at the ection. Rate collectors to assist at the elections.

XVI. On the day of election of vestrymen and auditors in any parish der this act the parishioners then rated to the relief of the poor in the rish, or, where the parish is divided into wards under this act, in the ard thereof for which the election is holden, and who are desirous of ting, shall meet at the place appointed for such election, and shall then id there nominate two ratepayers of the parish, or (if the parish be vided into wards) of the ward for which the election is holden, as fit and oper persons to be inspectors of votes; and the churchwardens, or, in e case of a ward election, such one of the churchwardens as is present ereat, or, where one of the churchwardens is not present, the person ppointed by them to preside thereat, shall, immediately after such mination as aforesaid by the parishioners, nominate two other such tepayers to be such inspectors; and after such nominations the said rishioners shall elect such persons duly qualified as may be there pro-sed for the offices of vestrymen and auditors or auditor; and the chair-an at such meeting shall declare the names of the parishioners who have en elected by a majority of votes at such meeting: provided nevertheless, at no person shall be entitled to join or vote in any such election for any rish, or any ward of any parish, or be deemed a ratepayer thereof, or be Form of proceeding at elections.

18 & 19 Vict. c. 120.

entitled to do any act as such under this act, unless he have been rated in such parish to the relief of the poor for one year next before the election, and have paid all parochial rates (*a*), taxes, and assessments due from him at the time of so voting or acting, except such as have been made or become due within six months immediately preceding such voting or acting.

Power to demand a poll, which shall be taken by ballot.

XVII. Provided always, that any five ratepayers may then and there, in writing or otherwise, demand a poll, which shall be taken by ballot on the day next following, and shall commence at eight of the clock in the forenoon and close at such hour as hereinafter mentioned; that is to say, at six of the clock in the afternoon in the case of any election to be holden in November one thousand eight hundred and fifty-five, and at eight of the clock in the afternoon in all other cases; each ratepayer depositing as hereinafter provided two folded papers, one of which papers shall contain the names of the persons for whom such parishioner may vote as fit and proper to be members of the vestry, and the other shall contain the names or name of the persons or person for whom such parishioner may vote as fit and proper to be auditors or auditor of accounts; and each ratepayer shall have one vote and no more for the members of the vestry, and one vote and no more for the auditors or auditor of accounts to be chosen in the said parish or ward.

Duty of inspectors of votes.

XVIII. The persons voting shall deposit such folded papers in two separate sets of balloting glasses or boxes, one set for voting papers for members of vestry, and another set for the voting papers for auditors or an auditor; and the said balloting glasses or boxes shall be closed at the time hereinbefore fixed for the closing of the poll; and the inspectors for the parish or ward (as the case may be) shall forthwith meet together, and proceed to examine the said votes, and if necessary shall continue the examination by adjournments from day to day, not exceeding two days (Sunday excepted), until they have decided upon the persons duly qualified (*b*) according to the provisions of this act who may have been chosen to fill the aforesaid offices.

Provision for case of equality of votes.

XIX. In case an equality of votes appear to the aforesaid inspectors to be given for any two or more persons to fill either of the said offices, the inspectors shall decide by lot upon the person to be chosen.

If in the interval between elections the vestry of any parish be reduced below two-thirds, the vacancies to be filled up as herein named.

XX. If in the interval between any election under this act of vestrymen in any parish and the time at which the next election would in the absence of this enactment have taken place the number of such vestrymen be reduced below two-thirds of the full number, so many vestrymen as may be requisite for filling up such number shall be forthwith elected in like manner as in the case of the annual election of such vestrymen, and the provisions of this act shall be applicable in the case of such election accordingly, save that the notice of election shall be varied from the form prescribed by this act so far as may be necessary, and where such parish is divided into wards under this act, each ward shall supply the vacancies among the members elected for the same; and every vestryman elected under this enactment shall go out of office at the time when the term of office of the person in whose place he is elected would have expired by effluxion of time.

Penalty for forging or falsifying any voting paper or obstructing the election.

XXI. If any person knowingly personate and falsely assume to vote in the name of any parishioner entitled to vote in any election under this act, or forge or in any way falsify any name or writing in any paper purporting to contain the vote or votes of any parishioner voting in any such election, or by any contrivance attempt to obstruct or prevent the purposes of any such election, the person so offending shall, upon conviction before any two or more justices of the peace having jurisdiction in the parish, be liable to a penalty of not less than ten and not more than fifty pounds,

(*a*) Church-rates are not included, see 19 & 20 Vict. c. 112, s. 7, *post*.
(*b*) See *Ex parte Ross*, 26 L. J., Q. B. 312.

and in default of payment thereof shall be imprisoned for a term not exceeding six nor less than three months.

A list of persons elected vestrymen and auditors by parishioners to be published.

XXII. The inspectors shall, immediately after they have decided upon whom the aforesaid elections have fallen, deliver to the churchwardens, or to one of them, or other the person presiding at the election, a list of the persons chosen by the parishioners to act as vestrymen and auditors or an auditor of accounts; and the said list, or a copy thereof, shall be published in the parish as herein provided.

Penalty on inspector for making incorrect return.

XXIII. If any inspector wilfully make or cause to be made an incorrect return of the said votes, every such offender shall, upon information laid by any person before two or more justices of the peace having jurisdiction in the parish, and upon conviction for such offence, be liable to a penalty of not less than twenty-five pounds and not exceeding fifty pounds.

Vestries to provide places for holding elections, and pay expenses of taking poll, &c.

XXIV. The vestry of every parish mentioned in either of the schedules (A.) and (B.) to this act shall provide such places as may be requisite for holding elections of vestrymen and auditors under this act, and taking the poll thereat; and the expenses of providing such places, of publishing notices, of taking the poll, and of making the return at elections of vestrymen and auditors, shall be paid out of the poor rates of the parish by order of the vestry: provided always, that the places requiring to be provided for the first election under this act of vestrymen and auditors in any parish shall be provided by the churchwardens, and the expenses of providing the same shall be paid out of the poor rates, upon their order.

As to parishes having no churchwardens.

XXV. The provisions hereinbefore contained shall, so far as concerns any parish in either of the said schedules (A.) and (B.) in which there are no churchwardens, be construed as referring to the overseers of the poor instead of the churchwardens.

How notices and lists to be published.

XXVI. Every notice and list hereinbefore required to be published in any parish or ward of any parish shall be so published by being fixed in some public and conspicuous situation, on the outside of the outer door or outer wall near the door of every church and public chapel in such parish or ward, including places of public worship which do not belong to the established church, and if there be no such building as aforesaid, then in some public and conspicuous situation within such parish or ward.

Churchwardens, &c., not complying with act guilty of misdemeanor.

XXVII. If any churchwarden, overseer, rate collector, or other parish officer refuse or neglect to call any meeting, or give any notice, or do any other act required of him under the provisions of this act, he shall be deemed guilty of a misdemeanor.

Quorum of vestries.

XXVIII. All powers or duties to be performed by the vestry of any parish under this act may be exercised and performed respectively by the major part of such vestry assembled at any meeting, there being not less than five vestrymen present at a meeting of a vestry which consists of not more than eighteen elected vestrymen, and not being less than seven vestrymen present at a meeting of a vestry which consists of twenty-four elected vestrymen and no more, and not being less than nine vestrymen present at a meeting of a vestry which consists of thirty-six elected vestrymen or upwards: and at every such meeting all questions shall be decided by the votes of the majority of the vestrymen present, and the vestry may act notwithstanding any vacancies therein.

Meetings not to be holden in the church.

XXIX. In any case in which the vestry-room of any such parish as aforesaid is not sufficiently large and commodious for any vestry meeting, such meeting shall be held elsewhere within the said parish, but not in the church or chapel thereof.

Meeting to elect a chairman.

XXX. At every meeting of any vestry under this act, in the absence of the persons authorised by law or custom to take the chair, the members present shall elect a chairman for the occasion before proceeding to other business, and the chairman, in case of an equality of votes on any question, shall have a second or casting vote.

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*Formation of parishes into districts, and constitution of district boards.*

XXXI. For the purposes of this act the several parishes mentioned in the second column of schedule (B.) to this act shall be united, and form the respective districts mentioned in conjunction therewith and named in the first column of the same schedule; and there shall be a board of works for each such district, composed of the members elected as hereinafter mentioned for the parishes forming such district.

Parishes in schedule (B.) to be united, and form districts, and district boards constituted.

Vestries to elect members of district boards.

XXXII. The vestry constituted by this act in every parish in any such district shall on the twenty-eighth day of November in the year one thousand eight hundred and fifty-five elect the number of persons mentioned in the third column of the said schedule (B.) in conjunction with such parish to be a member or members of the board of works for such district.

If relative numbers of inhabited houses in parishes in any district vary on any future census, the numbers of members may be altered.

XXXIII. When at any time hereafter, upon any account taken of the population by the authority of parliament, the relative numbers of the inhabited houses in the several parishes forming any such district are found to have varied from those shown by the last previous census, it shall be lawful for the metropolitan board of works constituted by this act, upon the application of the vestry or any ratepayers of any such parish, to alter the number of the members of the board of works for such district to be elected for all or any of the parishes therein; but so that the number of members to be elected for any such parish, if exceeding three, shall be a number divisible by three.

As to the term of office of members of district boards elected at first election, and as to future elections.

XXXIV. One third of the members of any such board first elected for any parish for which three or more such members are by this act appointed to be elected shall go out of office at the time hereinafter appointed for the election of members of such board in the year one thousand eight hundred and fifty-seven, one other third of them at the time appointed for such election in one thousand eight hundred and fifty-eight, and the remaining third at the time appointed for such election in the year one thousand eight hundred and fifty-nine; and the vestry shall at the time of the first election under this act of such members determine by lot which of the members first elected shall constitute the one third to go out of office in the years one thousand eight hundred and fifty-seven and one thousand eight hundred and fifty-eight respectively; and all members elected to supply vacancies occasioned by members going out of office at the expiration of their term of office shall go out of office at the election of members of such board in the third following year.

*Elections to be held annually for supplying vacancies occasioned by expiration of term of office.*

XXXV. *The vestry of every such parish shall on the first Wednesday in the month of June in the year one thousand eight hundred and fifty-seven, and in every subsequent year, elect so many vestrymen of such parish to be members of the board for the district in which such parish is comprised as may be necessary for supplying the vacancies among the members of such board elected for such parish occasioned by expiration of the term of office of the members going out of office at the time of such election* (a).

Provision as to parishes not electing as many as three members of a district board.

XXXVI. The members of any such board first elected for parishes for which less than three members are by this act appointed to be elected shall go out of office on the said first Wednesday in June one thousand eight hundred and fifty-nine, and members subsequently elected for such parishes to supply vacancies occasioned by members going out of office at the expiration of their term of office, shall go out of office on the first Wednesday in June in the third year following their election; and the vestries of such parishes shall on the said first Wednesday in June in the year one thousand eight hundred and fifty-nine, and in every third follow-

(a) See 25 & 26 Vict. c. 102, s. 40, *post*.

ing year, elect members in the place of the members then going out of office.

Provisions as to casual vacancies.

XXXVII. When any member of any district board dies, resigns, or ceases to be such member, otherwise than by the expiration of his term of office, the vestry of the parish for which he was elected shall with all convenient speed elect a person to be a member of such board in his place; and every member of any such board elected to supply any such vacancy shall go out of office when the term of office of the member in whose place he is elected would have expired by effluxion of time.

Powers of district boards to be exercised at meetings, not less than seven members being present.

XXXVIII. All powers and duties vested in the board of works for any district may be exercised or performed at any meeting of such board holden under this act, there being not less than seven members of the board present; and at every such meeting all questions shall be decided by the votes of the majority of the members present; and the board may act notwithstanding any vacancies therein, and notwithstanding any omission to elect any member or members of such board, in pursuance of this act.

Ordinary meetings of district boards.

XXXIX. The first meeting of the board of works for any district shall be holden on the Wednesday in the week next following the election of such board at ten o'clock in the forenoon, at the place at which the vestry of the parish in such district first named in schedule (B.) to this act usually meet; and every subsequent ordinary meeting shall be holden on and at such day, time, and place as the board may from time to time appoint in this behalf, subject, nevertheless, to the provision hereinafter contained, appointing the day on which meetings shall be holden for the first election of the metropolitan board of works.

Special meetings of district boards.

XL. A special meeting of any such board may be convened by any five members of the board, or by the clerk of the board, upon the requisition in writing of five members of the board, by a notice to the several members thereof forty-eight hours at least before the time of meeting, such notice to be signed by the members or clerk convening the meeting, and to specify the object thereof.

Chairman to be elected at meeting of board.

XLI. Every such board shall at every meeting of such board, before proceeding to business, elect a chairman of such meeting, and such chairman, in case of an equality of votes on any question, shall have a second or casting vote.

*Incorporation of vestries and district boards.*

XLII. The board to be constituted as aforesaid for every such district shall be a body corporate by the name of "the board of works for the district," and the vestry of every parish mentioned in schedule (A.) to this act shall be a body corporate by the name of "the vestry of the parish of in the county of ," and every such board and vestry shall by such name respectively have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this act.

District boards and vestries of parishes in schedule (A.) incorporated.

*Constitution and incorporation of metropolitan board of works.*

XLIII. A board, to be called "the metropolitan board of works," shall be constituted as hereinafter mentioned, and such board shall by such name be a body corporate, and have perpetual succession and a common seal, and sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this act.

Metropolitan board of works constituted and incorporated.

Three members of metropolitan board to be elected for the City.

XLIV. The mayor, aldermen, and commons of the city of London, in common council assembled, shall on the twelfth day of December one thousand eight hundred and fifty-five elect three persons to be members of the said metropolitan board, and shall, when any member of such board elected by the said mayor, aldermen, and commons dies, resigns, or otherwise ceases to be such member, elect some person in his place.

18 & 19 Vict. c. 120.

Vestries of single parishes and district boards to elect members of the metropolitan board.

XLV. The vestry of each of the parishes mentioned in the first part of the said schedule (A.) shall, at a meeting of such vestry to be holden on the twelfth day of December one thousand eight hundred and fifty-five, elect two persons to be members of the said metropolitan board of works; and the vestry of each of the parishes mentioned in the second part of the said schedule (A.), except the parish of Rotherhithe, and the board of works for each of the districts mentioned in the first part of the said schedule (B.), shall, at a meeting of such vestry and board respectively to be holden on the last-mentioned day, elect one person to be a member of the said metropolitan board; and every such vestry and board shall, when any member of such metropolitan board, elected by such vestry or board, dies, resigns, or otherwise ceases to be such member, elect a person to be a member of the said metropolitan board in the place of the member so dying, resigning, or otherwise ceasing to be such member.

Boards for district of Plumstead and Lewisham united for electing a member of metropolitan board.

XLVI. The districts of Plumstead and Lewisham, mentioned in the second part of the said schedule (B.), shall be united for the purpose of electing from time to time a member of the metropolitan board of works; and the boards of works for such districts shall, at a joint meeting of such boards, to be holden on the said twelfth day of December one thousand eight hundred and fifty-five, at the place of meeting of the board of works for the district of Plumstead, elect a person to be a member of the said metropolitan board: and when any member of such board elected by the boards of works for the said united districts dies, resigns, or otherwise ceases to be such member, such boards of works shall, at a joint meeting of such boards to be holden at the place aforesaid, elect some person in his stead; and such meeting shall be convened as follows; that is to say, the clerk of the board of works for the district of Plumstead shall communicate with the clerk of the board of works for the district of Lewisham, and arrange with him the time of such meeting of the boards of works for such districts; and when such arrangement has been made, notice of the time, place, and object of such meeting shall be given by such clerks respectively in manner required for notices of special meetings of the boards for such districts; and every election to be made as aforesaid by the said boards shall be determined by the votes of the majority of the members thereof present at the meeting; and every such meeting shall, before proceeding to the election, choose a chairman, who shall preside thereat, and shall, in case of an equality of votes for two or more persons, have a second or casting vote.

The parish of Rotherhithe and district of St. Olave united for electing a member of the metropolitan board of works.

XLVII. The parishes of Rotherhithe, Saint John Horsleydown, Saint Olave, and Saint Thomas Southwark shall be united for the purpose of electing from time to time a member of the metropolitan board of works; and the vestries of such several parishes shall, at a joint meeting of such vestries to be holden on the said twelfth day of December one thousand eight hundred and fifty-five, at the place of meeting of the vestry of the parish of Saint Olave, elect a person to be a member of the said metropolitan board; and when any member of the said board elected by such vestries dies, resigns, or otherwise ceases to be such member, such vestries shall, at a joint meeting of such vestries to be holden at the place aforesaid, elect some person in his stead; and such meeting shall be convened as follows; that is to say, the vestry clerk of the parish of Saint Olave shall communicate with the vestry clerks of the said other parishes, and arrange with them the time of such meeting; and when such arrangement has been made, notice of the time, place, and object of such meeting shall be given by the respective vestry clerks of all the said parishes in manner required for notices of vestry meetings; and every election to be made as aforesaid by the said vestries jointly shall be determined by the votes of the majority of the members thereof present at the meeting; and every such meeting shall, before proceeding to the election, choose a chairman,

ho shall preside thereat, and shall, in case of an equality of votes for wo or more persons, have a second or casting vote. 18 & 19 VICT. c. 120.

As to the term of office of members of metropolitan board elected at first election, and as to future elections.

XLVIII. One third of the members first elected as aforesaid of the letropolitan board of works shall go out of office on the second Wednesday i June one thousand eight hundred and fifty-seven, one other third of iem on the second Wednesday in June one thousand eight hundred and fty-eight and the remaining third on the second Wednesday in June one housand eight hundred and fifty-nine; and such first elected members hall determine by lot among themselves which of them shall constitute he one third to go out of office in the years one thousand eight hundred nd fifty-seven and one thousand eight hundred and fifty-eight respectively; nd all members of the said board elected to supply any vacancy occasioned y any member's going out of office by the expiration of his term of office hall go out of office on the second Wednesday in June in the third year ext following the year of his election; and every member of the said oard elected to supply any other vacancy shall go out of office when the erm of office of the member in whose place he is elected would have xpired by effluxion of time.

Elected members of metropolitan board to elect a chairman.

XLIX. The members first elected of the metropolitan board of works hall meet at such time and place as one of her Majesty's principal secrearies of state shall by notice in the London Gazette appoint in this behalf, nd shall at such meeting, or some meeting to be holden by adjournment hereof (which it shall be competent for the members present to appoint), lect a chairman of the said board, and shall also decide upon the amount f salary to be paid to such chairman, such salary not to be less than one housand five hundred pounds and not to exceed two thousand pounds per nnum; and such members, before proceeding at any such meeting to such lection, or to determine the amount of such salary, shall choose from mong the members present a chairman of such meeting, and such election f the future chairman of the board shall be determined by the votes of he majority of the members present, and in case of an equality of votes he chairman of the meeting shall have a second or casting vote; and any erson may be elected as aforesaid, whether he be or be not a member of he said board; and such chairman shall be subject to be removed by a esolution agreed to by two thirds of the members present at any meeting pecially convened for considering the question of such removal; and in ase any elected member of the said metropolitan board be appointed hairman thereof, he shall thenceforth be a member thereof by virtue only f his office of chairman, and his place as an elected member shall become acant, and another shall be elected in his stead.

As to appointment of chairman on any vacancy.

L. Upon every vacancy in the office of chairman of the said metroolitan board a new chairman shall be appointed, and his salary fixed, in anner hereinbefore mentioned, save that the appointment of such chairan may be made at any such meeting as may be provided in this behalf y the regulations for the time being of the said metropolitan board.

Powers of metropolitan board to be exercised at meetings, not less than nine members being present.

LI. All powers and duties vested in the metropolitan board of works ay be exercised and performed at any meeting of such board at which ot less than nine members of the board are present; and at every such neeting all questions shall be determined by the votes of the majority of he members present, and such board may act notwithstanding any vacanies therein, and notwithstanding any omission to elect any member or iembers of such board in pursuance of this act, but such board shall not e deemed to be constituted until the first election of a chairman of such oard under this act.

Meetings of the metropolitan board.

LII. The first meeting of the said metropolitan board shall be holden at ach time and place as the chairman may appoint, of which notice in riting, signed by such chairman, shall be given to each elected member f the said board two clear days at the least before the time of such neeting; and the said board may meet at such times and places as they

18 & 19 VICT. c. 120.

may from time to time appoint; and a special meeting of the said board may be convened by the chairman of the said board, or by the clerk thereof, upon the requisition in writing of the chairman or any five members of the board, by a notice to the several members thereof two clear days at the least before the time of meeting, such notice to be signed by the chairman or clerk convening the meeting, and to specify the object thereof.

Chairman to preside at meetings. In case of vacancy, &c., a temporary chairman to be chosen.

LIII. The chairman of the metropolitan board of works for the time being elected under this act shall preside at every meeting of such board at which he is present; and in case of a vacancy in the office of such chairman, or in his absence, some other member of such board shall be chosen to preside thereat; and in case there be an equal number of votes upon any question, the chairman presiding at the meeting shall have a second or casting vote.

*Provisions concerning constitution, procedure, and officers of metropolitan and district boards and vestries.*

LIV. In case any member of the metropolitan board of works, or of any district board of works, or of any vestry for any parish mentioned in schedule (A.) or (B.) to this act, or any auditor of the accounts of any such board or vestry, be declared bankrupt, or apply to take the benefit of or become subject to any act for the relief of insolvent debtors, or compound with his creditors, or accept or hold any office under the board or vestry of which he is a member, or of whose accounts he is auditor, other than, in the case of any such auditor, his office of auditor, or in any manner be concerned or interested in any contract or work made with or executed for such board or vestry, in every such case such person shall cease to be such member or auditor as aforesaid: (*a*) provided always, that no person being a shareholder of any joint stock company shall be disabled from continuing or acting as a member of any such board or vestry by reason of any contract between such company and such board or vestry, or of any work executed by such company; but no such member shall vote upon any question in which such company is interested; and any person who acts as a member of any such board or vestry, or as auditor of the accounts thereof, after ceasing to be such member or auditor as aforesaid, or who, being a shareholder in any joint stock company, votes upon any question in which such company is interested, and any person who acts as a member of any such vestry as aforesaid without being qualified by rating and occupation as required by this act, shall for every such offence be liable to a penalty of fifty pounds, which may be recovered by any person who may sue for the same in any of the superior courts of law, with full costs of suit: provided also, that all acts and proceedings of any person ceasing to be such member or auditor, or disabled from acting as aforesaid, shall, if done previously to the recovery of such penalty, be valid and effectual to all intents and purposes whatsoever.

Disqualifications of members of metropolitan board, of district boards, of vestries of parishes in schedule (A.) and (B.), and of auditors.

Members of metropolitan and district boards, and of vestries of parishes in schedule (A.) or (B.), may resign.

LV. Any member of the metropolitan board of works, or of any vestry elected for any parish mentioned in schedule (A.) or (B.) to this act, or of the board of works for any district, may at any time resign his office, such resignation of any member of the metropolitan board of works to be notified in writing signed by such member to the chairman of such board, and such resignation of any vestryman or member of any such district board to be notified in writing signed by such vestryman or member to the churchwardens of the parish for which he was elected.

Retiring members of boards and vestries may be re-elected.

LVI. Any member of the metropolitan board of works, or of any district board of works, or of any such vestry, going out of office, shall, if qualified, be capable of immediate re-election.

No resolution of metropolitan or any district board,

LVII. No resolution or other act of the metropolitan board of works, or of the board of works for any district, or of any such vestry, shall be revoked or altered at any subsequent meeting, unless such subsequent meeting be specially convened for the purpose, nor unless such revocation or alteration be determined upon by a majority consisting of two thirds of the members of the board, or of the vestrymen present at such subsequent

(*a*) See notes, p. 26.

meeting, if the number of members or vestrymen present at such subsequent meeting be not greater by one fifth than the number present when such resolution was made or such act was done, but if the number of members or vestrymen present at such subsequent meeting be greater by one fifth than the number present at such former meeting, then such revocation or alteration may be determined upon by a mere majority.

or of any vestry, to be revoked at a subsequent meeting, unless under certain circumstances.

Committees may be appointed.

LVIII. It shall be lawful for the metropolitan board of works, and the board of works for any district, and any such vestry respectively, to appoint a committee or committees for any purposes which, in the discretion of the board or vestry, would be better regulated and managed by means of such committee, and at any meeting to continue, alter, or discontinue such committee: provided always, that the acts of every such committee shall be submitted to the general body of the board or vestry appointing such committee for their approval (*a*).

Powers of committees.

LIX. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless three members of the committee are present.

Minutes of proceedings of metropolitan and district boards and of vestries to be entered.

LX. Entries of all proceedings of the metropolitan board of works and every such district board, and of any such vestry, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board or vestry, and shall be signed by the members present, or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board or vestry having been duly convened or held, or of the presence at any such meeting of the persons named in any such entry as being present thereat, or of such persons being members of the board or vestry, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and every such board and vestry shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid by them or under their authority, and of all liabilities incurred by them, and of the several purposes for which such sums of money are received and paid and such liabilities incurred, and copies of all contracts entered into by any such board or vestry.

All books to be open to inspection.

LXI. All such books shall at all reasonable times be open to the examination of every member of the board and vestry respectively to which such books belong, and of every owner of property, churchwarden, overseer, and ratepayer within the metropolis, as regards books of the said metropolitan board, and of every owner of property, churchwarden, overseer, and ratepayer within any district or parish, as regards books belonging to the district board or vestry thereof (as the case may be), and of every creditor on the rates raised under this act by any such board or vestry respectively, without fee or reward, and they respectively may take copies of or extracts from such books or any part thereof, without paying for the same; and in case the members of the board or vestry, or any of them, or any of the officers or servants of the board or vestry having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any such owner of property, churchwarden, overseer, ratepayer, or creditor to examine the same, or take any copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before two justices, forfeit any sum not exceeding ten pounds.

(*a*) Except in the case of the metropolitan board, who may nevertheless instruct any committee, who shall act in conformity therewith, and report to the board (25 & 26 Vict. c. 102, s. 31, *post.*)

18 & 19 VICT. c. 120.

Power to metropolitan board, district boards, and vestries to appoint officers.

LXII. The metropolitan board of works, and (subject to the provisions herein contained) the board of works for every district under this act, and the vestry of every parish mentioned in schedule (A.) to this act, shall respectively appoint or employ, or continue for the purposes of this act, and may remove at pleasure, such clerks, treasurers, and surveyors, and such other officers and servants as may be necessary, and may allow to such clerks, treasurers, surveyors, officers, and servants respectively such salaries and wages as the board or vestry may think fit (*a*).

Clerk and treasurer not to be the same person.

LXIII. No person holding the office of treasurer under the metropolitan board, or any district board or any such vestry, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of clerk; and neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or in any manner assist or officiate in the office of treasurer; and every person offending in any of the cases specified in this provision shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action in any of the superior courts of law.

Penalty on officers, &c., being interested in contracts, or exacting fees.

LXIV. No officer or servant of the metropolitan board, or of any district board or any such vestry, shall be in anywise concerned or interested in any contract or work made with or executed for such board or vestry; and if any such officer or servant be so concerned or interested, or, under colour of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under such board or vestry, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action in any of the superior courts of law; provided that no person, being a shareholder of any joint stock company, shall be prevented from being employed as an officer or servant by reason of any contract between such company and such board or vestry, or of any work executed by such company.

Officers, &c. intrusted with money to give security for duly accounting for the same.

LXV. Before any officer or servant as aforesaid enters upon any office or employment under this act, by reason whereof he will or may be intrusted with the custody or control of money, the board or vestry shall require and take from him such security for the faithful execution of such office or employment, and for duly accounting for all monies which may be intrusted to him by reason thereof, as they may think sufficient; (*a*) and every such officer and servant, as well during his continuance in office or employment as upon his resignation, dismissal, or ceasing to hold his office or employment, shall respectively, when and in such manner as shall be required by the board or vestry, make out and deliver a true and perfect account, in writing signed by him, of all monies received by him for the purposes of this act, and stating how, and to whom, and for what purpose such monies have been disposed of, and shall together with such account deliver the vouchers or receipts for all payments made by him, and pay over to the treasurer or such person as the board or vestry may appoint all monies owing by him; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such monies as aforesaid, or if, for the space of five days after being thereunto required, he fail to deliver up to the board or vestry, or to such person as they may appoint, all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the board or vestry, then and in every such case a justice shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two justices, at a time and place to be specified in the summons; and upon the appearance of the party charged, or upon proof that the summons was personally served

If officer fail to render account, &c. justices may commit offender to prison.

(*a*) See notes, p. 113.

on him or left at his last known place of abode in England, and if it ppear to the last-mentioned justices that he has failed to render any such count, or to produce and deliver up any such vouchers or receipts, or any ch books, papers, writings, property, effects, matters, or things as aforeid, and that he still fails or refuses so to do, it shall be lawful for them, warrant under their hands and seals, to commit the offender to gaol, ere to remain, without bail, until he shall have rendered such account, d produced and delivered up all such vouchers, receipts, books, papers, ritings, property, effects, matters, and things in respect of which the arge was made; (a) and if it appears that the party charged has failed to y over any such monies as aforesaid, and that he still fails or refuses so do, it shall be lawful for the last-mentioned justices, by a like warrant, cause the same to be levied by distress and sale of his goods and chattels, d in default of any sufficient distress to commit him to gaol, there to main, without bail, for a period not exceeding three months, unless such onies be sooner paid: provided always, that if the complainant, by depotion on oath, show to the satisfaction of any justice that there is probable use for believing that the party charged intends to abscond, it shall be wful for such justice, without previous summons, by warrant under his and and seal to cause him to be forthwith apprehended; and in such case e said party shall, within twenty-four hours after apprehension, be ought before the same or some other justice, who may order that he be scharged from custody, if such justice think that there is no sufficient ound for detention, or that he be further detained until he be brought fore two justices at a time and place to be named in the order, unless bail the satisfaction of the justice be given for the appearance of the party fore such two justices: provided also, that no such proceeding shall be nstrued to relieve or discharge any surety of the offender from any ability whatsoever.

Power to levy by distress.

LXVI. The metropolitan board of works and every such district board nd vestry respectively shall provide and maintain such offices within their spective district or parish as may be necessary for the purposes of this t, and shall take care that their clerk, or some person duly authorised by em in that behalf, attends at their office daily (Sundays, Christmas Day, nd Good Friday, and days appointed for any general fast or thanksgiving, one excepted), for the purpose of receiving notices and transacting the rdinary business of the board or vestry under this act.

Metropolitan and district boards and vestries to provide proper offices, and cause daily attendance to be given.

LXVII. Where in the provisions hereinafter contained any expression is sed referring to the vestry of a parish, such expression shall be construed referring only to the vestry of a parish mentioned in schedule (A.) to is act, unless such construction be repugnant to the context.

*Duties and powers of vestries and district boards.*

"Vestry" in following provisions to mean vestry of a parish in schedule (A.

LXVIII. Upon the commencement of this act all sewers vested in the etropolitan commissioners of sewers which are situate in any parish menoned in schedule (A.) to this act (except such sewers as are mentioned in hedule (D.) to this act), with the walls, defences, banks, outlets, uices, flaps, penstocks, gullies, grates, works, and things thereunto ppertaining, and the materials thereof, with all rights of way and passage sed and enjoyed by such commissioners over or to such sewers, works, nd things, and all other rights concerning or incident to such sewers, orks, and things, shall become vested in the vestry of such parish; and ll sewers vested in the said metropolitan commissioners which are situate ithin any district mentioned in schedule (B.) to this act, except as before xcepted, with all such works and things as aforesaid appertaining thereto, nd all rights of way and passage used and enjoyed by such commissioners ver or to such sewers, works, and things, and all other rights concerning

Sewers (except main sewers) vested in vestries and district boards.

(a) See note, p. 114.

18 & 19 Vict. c. 120.

or incident to such sewers, works, and things, shall become vested in the board of works for such district; and all sewers made and to be made within any such parish or district, except sewers and works vested or to be vested in the metropolitan board of works, as hereinafter mentioned, shall be vested in such vestry and board respectively.

Vestries and district boards to repair, &c., all sewers vested in them, and from time to time to construct new ones, &c.

LXIX. The vestry of every parish mentioned in schedule (A.) to this act, and the board of works for every district mentioned in schedule (B.) to this act, shall (subject to the powers by this act vested in the metropolitan board of works) from time to time repair and maintain the sewers under this act vested in them, or such of them as shall not be discontinued, closed up, or destroyed under the powers herein contained, and shall cause to be made, repaired, and maintained such sewers and works, or such diversions or alterations of sewers and works, as may be necessary for effectually draining their parish or district, and shall cause all banks, wharves, docks, or defences abutting on or adjoining any river, stream, canal, pond, or watercourse in such parish or district to be raised, strengthened, or altered or repaired, where it may be necessary so to do, for effectually draining, or protecting from floods or inundation such parish or district; and it shall be lawful for any such vestry or district board to carry any such sewers or works through, across, or under any turnpike road, or any street or place laid out as or intended for a street, or through or under any cellar or vault which may be under the pavement or carriage-way of any street, and into, through, or under any lands whatsoever, making compensation for any damage done thereby as hereinafter provided; and it shall be lawful for any such vestry or district board from time to time to enlarge, contract, raise, lower, arch over, or otherwise improve or alter all or any of the sewers, watercourses, and works which shall be from time to time vested in them or subject to their order and control, and to discontinue, close up, or destroy such of them as they may deem to have become unnecessary: provided always, that no new sewer shall be made without the previous approval of the metropolitan board of works: provided also, that the discontinuance, closing up, destruction, or alteration of any sewer as aforesaid shall be so done as not to create a nuisance; and if by reason thereof any person shall be deprived of the lawful use of any covered sewer, it shall be the duty of the vestry or district board to provide some other sewer or a drain as effectual for his use as the sewer of which he is so deprived: provided also, that where the vestry or district board alter any sewer, or provide a new sewer in substitution for a sewer discontinued, closed up, or destroyed, they may contract or otherwise alter the private drains communicating with the sewer so altered, or with the sewer so discontinued, closed up, or destroyed, or may close up or destroy such private drains, and provide new drains in lieu thereof, as the circumstances of the sewerage may appear to them to require, but so that in every case the altered or substituted drain shall be as effectual for the use of the person entitled thereto as the drain previously used (*a*).

Power to vestries and district boards to do works of improvement in sewers, &c., the expense of which to be divided between the party liable and the parish or district.

LXX. Wherever any party is, by prescription, by reason of tenure, or otherwise, liable by law to maintain or do any repairs to sewers, banks, watercourses, or works in any such parish or district which the vestry or district board judge it necessary to alter or improve, it shall be lawful for them to make such alterations or improvements therein as they think proper, and to divide the expense of such alterations or improvements between the party liable to such maintenance or repairs and the parish, district, or persons who would have been wholly liable to the expense of such alterations or improvements if no party had been liable as aforesaid, so as to throw on the party liable to such maintenance or repairs such part of the expense of alterations or improvements as may be equal to what would be incurred for such maintenance or repairs, and to throw on the

(*a*) See 25 & 26 Vict. c. 102, s. 58, *post*.

18 & 19 Vict. c. 120.

irish, district, or persons aforesaid the residue of such expense, and to ttle and adjust such proportions either by some general regulation or by der in each particular case, as they may think proper: provided always, at nothing in this act contained shall exempt from liability to do any orks, or to pay the whole cost thereof, any person who, by prescription, y reason of tenure, or otherwise by law, is so liable.

Gullyholes, &c., to be trapped.

LXXI. Every district board and vestry shall, by providing proper traps other coverings, or by ventilation, or by such other ways and means as all be practicable for that purpose, prevent the effluvia of sewers from haling through gullyholes, gratings, or other openings of sewers in any the streets or other places within their district or parish.

Vestries and district boards to cause sewers to be cleansed, &c.

LXXII. Every vestry and district board shall cause the sewers vested them to be constructed, covered, and kept so as not to be a nuisance or jurious to health, and to be properly cleared, cleansed, and emptied, and r the purpose of clearing, cleansing, and emptying the same they may nstruct and place, either above or under ground, such reservoirs, sluices, gines, and other works as may be necessary.

Vestry or district board in certain cases may compel owners, &c., of houses to construct drains into the common sewer.

LXXIII. If any house or building, whether built before or after the mmencement of this act, situate within any such parish or district, be und not to be drained by a sufficient drain communicating with some wer, and emptying itself into the same, to the satisfaction of the vestry board of such parish or district, and if a sewer of sufficient size be within e hundred feet of any part of such house or building, on a lower level an such house or building, it shall be lawful for the vestry or board at eir discretion, by notice in writing, to require the owner of such house or ilding forthwith, or within such reasonable time as may be appointed by e vestry or board, to construct and make from such house or building to any such sewer a covered drain, and such branches thereto, of such aterials, of such size, at such level, and with such fall as shall be lequate for the drainage of such house or building, and its several floors stories, and also of its areas, watercloseta, privies, and offices, (if any,) d for conveying the soil, drainage, and wash therefrom into the said wer, and to provide fit and proper paved or impermeable sloped surfaces r conveying surface water thereto, and fit and proper sinks, and fit and oper syphoned or otherwise trapped inlets and outlets for hindering ench therefrom, and fit and proper water supply and water supplying pes, cisterns and apparatus for scouring the same, and for causing the me to convey away the soil, and fit and proper sand traps, expanding lets and other apparatus for hindering the entry of improper substances erein, and all other such fit and proper works and arrangements as may ppear to the vestry or board, or to their officers, requisite to secure the fe and proper working of the said drain, and to prevent the same from structing or otherwise injuring or impeding the action of the sewer to hich it leads; and it shall be lawful for the said vestry or board to use the said works to be inspected while in progress, and from time to me during their execution to order such reasonable alterations therein, ldditions thereto, and abandonment of part or parts thereof, as may to the stry or board or their officers appear, on the fuller knowledge afforded r the opening of the ground, requisite to secure the complete and perfect orking of such works; and if the owner of such house or building neglect refuse, during twenty-eight days after the said notice has been delivered such owner, or left at such house or building, to begin to construct such ain and other works aforesaid, or any of them, or thereafter fail to rry them on and complete them with all reasonable despatch, it shall be wful for the vestry or board to cause the same to be constructed and de, and to recover the expenses to be incurred thereby from such owner the manner hereinafter provided (a).

Penalty on owner, &c., for neglect.

(a) See 25 & 26 Vict. c. 102, s 64, *post*.

18 & 19 Vict. c. 120.

Provision for combined drainage of blocks of houses.

LXXIV. If it appear to the vestry or board of any parish or district that a group or block of contiguous houses, or of adjacent detached or semi-detached houses, may be drained and improved more economically or advantageously in combination than separately, and a sewer of sufficient size already exist or be about to be constructed within one hundred feet of any part of such group or block of houses, whether contiguous, detached, or semi-detached, it shall be lawful for such board or vestry to order that such group or block of houses be drained and improved, as hereinbefore provided, by a combined operation (*a*).

No house to be built without drains constructed to the satisfaction of the vestry or district board.

LXXV. It shall not be lawful to erect any house or other building in any parish mentioned in schedule (A.) to this act, or in any district mentioned in schedule (B.) to this act, or to rebuild any house or building within any such parish or district which has been pulled down to or below the floor commonly called the ground floor, or to occupy any house or building so newly built or rebuilt, unless a drain and such branches thereto and other connected works and apparatus and water supply as hereinbefore mentioned be constructed and provided to the satisfaction of the surveyor of the vestry of such parish or board of works for such district, of such materials, of such size, at such level, and with such fall as they may direct, so that the same shall be available for the drainage of the lowest floor of such house or building, and of its several floors or stories, and also of its areas, waterclosets, privies, and offices (if any), which drain shall lead from such house or building, or the intended site of such house or building, to such sewer, already made or intended to be constructed near thereto, as the vestry or board shall direct and appoint, or if there be no such sewer existing or intended to be constructed within one hundred feet of any part of the intended site of such house or building, then to such covered cesspool or other place, not being under any dwelling house, as the vestry or board shall direct; and whenever any house or building is rebuilt as aforesaid the level of the lowest floor of such house or building shall be raised sufficiently to allow of the construction of such a drain and such branches thereto and other works and apparatus as are hereinbefore required, and for that purpose the levels shall be taken and determined under the direction of the vestry or district board.

Notice of buildings to be given to the vestry or district board before commencing the same.

LXXVI. Before beginning to lay or dig out the foundation of any new house or building within any such parish or district, or to rebuild any house or building therein, and also before making any drain for the purpose of draining directly or indirectly into any sewer under the jurisdiction of the vestry or board of or for any such parish or district, seven days notice in writing shall be given to the vestry or board by the person intending to build or rebuild such house or building or to make such drain; and every such foundation shall be laid at such level as will permit the drainage of such house or building in compliance with this act, and as the vestry or board shall order, and every such drain shall be made in such direction, manner, and form, and of such materials and workmanship, and with such branches thereto and other connected works and apparatus and water supply as hereinbefore mentioned, and as the vestry or board shall order, and the making of every such drain shall be under the survey and control of the vestry or board; and the vestry or district boards shall make their order in relation to the matters aforesaid, and cause the same to be notified to the person from whom such notice was received within seven days after the receipt of such notice, and in default of such notice, or if such house, building, or drain, or branches thereto or other connected works and apparatus and water supply, be begun, erected, made, or provided in any respect contrary to any order of the vestry or board made and notified as aforesaid, or the provisions of this act, it shall be lawful for the vestry or board to cause such house or

(*a*) See 25 & 26 Vict. c. 102, s. 64, *post*.

ilding to be demolished or altered, and to cause such drain or branches ›reto and other connected works and apparatus and water supply to be aid, amended, or re-made, or, in the event of omission, added, as the e may require, and to recover the expenses thereof from the owner ›reof in the manner hereinafter provided (*a*). 18 & 19 Vict. c. 120.

LXXVII. *It shall be lawful for any person, at his own expense, to make branch any drain into any of the sewers vested in the metropolitan board works or any vestry or district board under this act, or authorised to be ıde by them under this act, such drain being of such a size, and of such ıditions, and branched to such sewer, in such a manner and form of ımunication in all respects as the vestry or board shall direct or point; and in case any person make or branch any drain into any of ' said sewers so vested in the vestry or board, or authorised to be made them under this act, of a larger size, or of different conditions, or in a fferent manner and form of communication than shall be directed or pointed by the vestry or board, every person so offending shall for every ch offence forfeit a sum not exceeding fifty pounds* (*b*). *Power to branch drains into sewers constructed by metropolitan board, or any vestry or district board, under certain regulations. Penalty.*

LXXVIII. Whenever it is necessary to open any part of the pavement any street or public place, for the purpose of making or branching any ivate drain into any of the sewers or drains vested in the metropolitan ard of works, or any vestry or district board under this act, or autho- ›ed to be made by them under this act, it shall be lawful for the vestry board, in case they think fit so to do, to make so much and such part such private drain, and also to construct so much and such part of the ›rk necessary for branching the same into the public sewers as shall be ›der or in any street, and to recover the expenses incurred thereby from e owner of the house, building, or ground to which such private drain longs, in the manner hereinafter provided. Power to metropolitan board or vestry or district board to branch private drains into sewers, at the expense of the party to whom they belong.

LXXIX. It shall be lawful for any such vestry or board to contract and ree with the owners or occupiers of any houses, buildings, or ground that y drains required to be made, altered, or enlarged by such owners shall constructed, made, altered, and enlarged by the vestry or board; and e cost price of making, altering, or enlarging such drains, as certified by e surveyor of the vestry or board, shall be repaid by the owner or ›upier so agreeing to the vestry or board, and in default of payment the me may be recovered in the manner hereinafter provided. Vestry or district board may agree to make house drains at the expense of owners or occupiers

LXXX. Where any sewer in any of the parishes mentioned in either of e schedules (A.) and (B.) to this act, into which any drain shall be ıde or branched, has been built since the third day of September one ›usand eight hundred and thirteen, and before the commencement of is act, at the expense of any person or body other than any commis- ›ners of sewers, the vestry or district board in whom such sewer is vested ıy order such sum as they may deem just to be paid and contributed by e owner of the house to which such drain belongs towards the expense the construction of such sewer, which sum shall, on the receipt thereof such vestry or board, be paid over to the person or body aforesaid, d such vestry or board may, if they see fit, order and accept payment of ch sum, with interest after a rate not exceeding five pounds for the ndred by the year, by instalments within any period not exceeding enty years (*c*). Vestry or district board may order a contribution towards construction of sewers in certain cases.

LXXXI. After the commencement of this act it shall not be lawful wly to erect any house, or to rebuild any house pulled down to the tent aforesaid, within any parish mentioned in schedule (A.) to this act, any district mentioned in schedule (B.) to this act, without a sufficient ›tercloset or privy and ashpit furnished with proper doors and coverings, d also furnished as regards the watercloset with suitable water supply Penalty on erecting or rebuilding houses without proper watercloset, &c.

(*a*) See 25 & 26 Vict. c. 102, ss. 63, 64, and 88, *post*. (*b*) *Ibid.*, s. 61, *post*.
(*c*) *Ibid.*, s. 59, *post*.

18 & 19 Vict. c. 120.

and water supply apparatus, and with suitable trapped soilpan and other suitable works and arrangements, so far as may be necessary to ensure the efficient operation thereof; and whosoever shall offend against this enactment shall be liable to a penalty not exceeding twenty pounds; and if at any time it appear to the vestry or district board of such parish or district that any house in any such parish or district, whether built before or after the commencement of this act, is without a sufficient watercloset or privy and ashpit furnished with proper doors and coverings, and with other apparatus and works as aforesaid, the vestry or district board shall, in case the same can be provided without disturbing any building, give notice in writing to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to provide a sufficient watercloset or privy and ashpit so furnished as aforesaid, or either of them, as the case may require; and if such notice be not complied with it shall be lawful for the vestry or district board to cause to be constructed a sufficient watercloset or privy and ashpit, or either of them, or do such other works as the case may require, and to recover the expenses incurred by them in so doing from the owner of such house in manner hereinafter provided (*a*): provided always, that where a watercloset or privy has been and is used in common by the inmates of two or more houses, or if in the opinion of the vestry or district board a watercloset or privy may be so used, they need not require the same to be provided for each house (*b*).

Power to vestry, &c., to require owners, &c., to provide sufficient water-closets, &c.

If owners fail, vestry, &c., to cause the work to be done at their expense.

Power for vestries and district boards to authorise inspection of drains, privies, and cesspools.

LXXXII. It shall be lawful for any such vestry or board, or for their surveyor or inspector, or such other person as they appoint, to inspect any drain, watercloset, privy, cesspool, or water supply apparatus, or sinks, traps, syphons, pipes, or other works or apparatus connected therewith, within the parish or district of such vestry or board, and for that purpose, at all reasonable times in the daytime, after twenty-four hours' notice in writing has been given to the occupier of the premises to which such drain, watercloset, privy, cesspool, or water supply apparatus, or other connected works or apparatus as aforesaid, is attached, or left upon the premises, or in case of emergency without notice, to enter, by themselves or their surveyor or inspector and workmen, upon any premises, and cause the ground to be opened in any place they think fit, doing as little damage as may be.

Penalty on persons improperly making or altering drains.

LXXXIII. In case any drain, watercloset, privy, cesspool, or water supply, or water supply apparatus, or other connected works or apparatus, hereinbefore mentioned, be found, on inspection, not to have been made or provided according to the directions or regulations of the vestry or district board, or contrary to the provisions of this act, or in case any person, without the consent of the vestry or district board, construct, rebuild, or unstop any sewer, drain, watercloset, privy, or cesspool, which may have been ordered by them not to be made, or to be demolished or stopped up, or in case any person discontinue any water supply, or destroy any connected works or apparatus as aforesaid, or in case any person, without the consent of the vestry or district board, break into any sewer vested in such vestry or board, every person so offending shall forfeit and pay any sum not exceeding ten pounds; and in case the person so making any sewer, drain, watercloset, privy, cesspool, or other works or apparatus as aforesaid, contrary to the directions or regulations of the vestry or board, or contrary to the provisions of this act, or, without such consent as aforesaid, constructing, rebuilding, or unstopping any sewer, drain, watercloset, privy, or cesspool which may have been ordered to be demolished or stopped up, or discontinuing any water supply or destroying any connected works or apparatus as aforesaid, or breaking into any such sewer as aforesaid, do

(*a*) See *St. Luke's Vestry* v. *Lewis*, 1 B. & S. 865; 31 L. J. M.C. 73.
(*b*) See 25 & 26 Vict. c. 102, s. 64, *post*.

not, within fourteen days after notice in writing by the vestry or board, cause such sewer, drain, watercloset, privy, or cesspool to be altered or reinstated in conformity with the directions of the vestry or board, or, as the case may be, to be demolished or stopped up, or such water supply to be renewed, or such connected works or apparatus to be restored, then and in every such case the vestry or board may cause the work to be done, and the expenses thereof shall be paid by the person who has so offended.

Where no default found, expenses to be paid by vestry or board.

LXXXIV. If such drain, watercloset, privy, cesspool, or water supply, or water supply apparatus, or other connected works and apparatus, be found on inspection as aforesaid to be made to the satisfaction of the vestry or board, and in proper order and condition, they shall cause the same to be reinstated and made good as soon as may be, and the expenses of examination, reinstating and making good such drain, watercloset, privy, cesspool, or other works or apparatus as aforesaid, shall be defrayed by the vestry or board, and full compensation shall be made by them for all damages or injuries done or occasioned by the examination of any such drain, watercloset, privy, cesspool, or other works or apparatus as aforesaid.

Vestry or district board to cause drains, &c., to be put into proper condition, &c., where necessary.

LXXXV. If, upon such inspection as aforesaid, any drain, watercloset, privy, or cesspool appear to be in bad order and condition, or to require cleansing, alteration, or amendment, or to be filled up, the vestry or board shall cause notice in writing to be given to the owner or occupier of the premises upon or in respect of which the inspection was made, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to do the necessary works; and if such notice be not complied with by the person to whom it is given the vestry or board may, if they think fit, execute such works, and the expenses incurred by them in so doing shall be paid to them by the owner or occupier of the premises (*a*).

Vestry and district board to cause offensive ditches, drains, &c., to be cleansed or covered.

LXXXVI. Every vestry and district board shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, which may be situate in their parish or district; and they shall cause written notice to be given to the person causing any such nuisance, or to the owner or occupier of any premises whereon the same exists, requiring him, within a time to be specified in such notice, to drain, cleanse, cover, or fill up such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge of such filth, water, matter, or thing, or to do such other works as the case may require; and if the person to whom such notice is given fail to comply therewith, the vestry or board shall execute such works as may be necessary for the abatement of such nuisance, and may recover the expenses thereby incurred from the owner of the premises in manner hereinafter mentioned: provided always, that it shall be lawful for such vestry or board, where they think it reasonable, to defray all or any portion of such expenses, as expenses of sewerage are to be defrayed under this act: provided also, that where any work by any vestry or district board done or required to be done in pursuance of the provisions of this act interferes with or prejudicially affects any ancient mill, or any right connected therewith, or other right to the use of water, full compensation shall be made (*b*) to all persons sustaining damage thereby, in manner hereinafter provided, or it shall be lawful for the vestry or board, if they think fit, to contract for the purchase of such mill, or any such right connected therewith, or other right to the use of water; and the provisions of this act with respect to the purchases by the vestry or board

Where works interfere with any ancient mill, &c., compensation to be made, or rights therein purchased.

(*a*) See 25 & 26 Vict. c. 102, s. 64, *post*.
(*b*) See *Stainton* v. *Metropolitan Board*, 23 Beav. 225.

hereinafter authorised shall be applicable to every such purchase as aforesaid (*a*).

Power to vestries and district boards to fill up ditches by the side of roads, and substitute pipes.

LXXXVII. It shall be lawful for any vestry or district board, where they think fit, to cause the ditches at the sides of or across public roads and byeways and public footways to be filled up, and to substitute pipe or other drains alongside or across such roads and ways, with appropriate shoots and means of conveying water from such roads and ways thereinto, and from time to time to repair and amend the same; and the surface of land gained by filling up such ditches may, if the vestry or board so think fit and direct, be thrown into such roads and ways, and be repairable as part thereof, and be under the control of the surveyors of the highways, or other person in charge of such roads, byeways, or footways.

Power to vestries and district boards to provide public conveniences.

LXXXVIII. It shall be lawful for every vestry and district board to provide and maintain urinals, watercloseets, privies, and like conveniences, in situations where they deem such accommodation to be required, and to supply the same with water, and to defray the expense thereof, and any damage occasioned to any person by the erection thereof, and the expense of keeping the same in good order, as expenses of sewerage are to be defrayed under this act.

Vestries and district boards may transfer their powers as to sewerage to the metropolitan board of works.

LXXXIX. If any vestry or district board desire to transfer to the metropolitan board of works the powers and duties vested in such vestry or district board in relation to sewerage and drainage, and a resolution for so transferring such powers and duties be passed by a majority at a meeting of such vestry or district board, specially convened for the purpose of considering the question of such transfer, of which not less than fourteen days' notice shall have been given, and at which there shall be present not less than two thirds of the whole number of such vestry or board, then such powers and duties, and all sewers and property vested in such vestry or board under this act, for the purposes of or in connexion with such powers and duties, shall, at the expiration of one month after notice from such vestry or board shall have been given under their seal to the said metropolitan board of such resolution having been passed as aforesaid, become vested in the said metropolitan board, and the provisions of this act for defraying expenses incurred by such board in the execution of this act shall extend to expenses incurred by them in the execution of the powers and duties so transferred to them (*b*).

All powers relating to paving, &c., to be vested in vestries and in district boards.

XC. All the duties, powers, and authorities for or in relation to the paving, lighting, watering, cleansing, or improving of any parish mentioned in schedule (A.) to this act, or any part of such parish, now vested in any commissioners, or in any body other than the vestry of such parish, or in any officer of any commissioners or other body, and all other duties, powers, and authorities in anywise relating to the regulation, government, or concerns of any such parish or part, or of the inhabitants thereof, (except such duties, powers, and authorities as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, so far as such duties, powers, and authorities relate thereto (*c*)), now vested under any local act of parliament in any commissioners, or in any body other than the vestry of such parish, or in any such officer, shall cease to be so vested, and shall, save as herein otherwise provided, become vested in and be performed and exercised by the vestry of such parish under this act; and all the duties, powers, and authorities for or in relation to the paving, lighting, watering, cleansing, or improving of any parish included in any district mentioned in schedule (B.) to this act, or any part of such parish, now vested in any commissioners, vestry, or other body, or in any officer of any commissioners or other body, and all other duties, powers, and

(*a*) See 25 & 26 Vict. c. 102, s. 64, *post*. (*b*) *Ibid.*, s. 28, *post*.
(*c*) See 19 & 20 Vict. c. 112, s. 1, *post*.

authorities in anywise relating to the regulation, government, or concerns of any such parish, or part, or of the inhabitants thereof (except such duties, powers, and authorities as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, so far as such duties, powers, and authorities relate thereto), now vested under any local act of parliament in any commissioners, vestry, or other body, or in any such officer, shall cease to be so vested, and shall, save as herein otherwise provided, become vested in and be performed and exercised by the board of works for such district; and the provisions of every such act of parliament as aforesaid shall be applicable to the vestry of every parish mentioned in the said schedule (A.) and to every such district board accordingly, and the offices of all commissioners and persons whose powers are determined by this act shall cease and be determined, and there shall be no new appointment or election to any such office.

Saving as to baths and washhouses, metropolitan burials, markets, and charitable trusts acts.

XCI. Provided always, that, save as regards the appointment of auditors, nothing in this act shall divest the vestry of any parish, or any commissioners or burial board appointed by any vestry, of any powers or property vested in them respectively under the provisions of the act of the session holden in the ninth and tenth years of her Majesty, chapter seventy-four, or any act amending the same, or under the provisions of the act of the session holden in the fifteenth and sixteenth years of her Majesty, chapter eighty-five, or any act amending the same, or in anywise affect the provisions of any of the said acts; and nothing in this act shall extend to or affect any rights, privileges, powers, or authorities vested in any persons in reference to any market, or any powers or rights for or in relation to the administration of any charitable trusts, save that any powers or rights in relation to any such trusts vested or which would have become vested in the existing vestry of any parish shall be vested in the vestry of such parish as constituted by this act.

Expenses incurred under existing powers relating to paving, &c., to be deemed expenses incurred in execution of this act.

XCII. Provided also, that all expenses of paving, lighting, watering, cleansing, or improving any parish or any part of any parish mentioned in either of the schedules (A.) and (B.) to this act, and all other expenses in relation to the regulation, government, or public concerns of any such parish or part, or of the inhabitants thereof, except only expenses incurred in relation to the affairs of the church, or for the management or relief of the poor, and other expenses by law payable out of any poor rate, which are not herein provided for, shall be deemed expenses incurred in the execution of this act, and shall be defrayed accordingly.

As to the transfer of property.

XCIII. All property, matters, and things whatsoever vested in such commissioners or other body, or in any such officer as aforesaid, under any such act, in connexion with any such duties or powers as aforesaid, hereby transferred to the vestry of any parish or the board of works for any district, shall upon the commencement of this act be vested in such vestry or board; and where any such property, matters, or things are vested in any such commissioners or body, or officer, acting for parts extending beyond such parish or district, the metropolitan board of works shall by their order declare in what vestry or district board they shall be vested, and may, if they see fit, apportion the same between the vestries and district boards within whose respective districts and parishes such parts may be situate, and the same shall be vested accordingly; and any money in the possession of any such commissioners or other body, or any such officer, which becomes vested in any such vestry or board under this enactment, and the income of any other such property, until sold or disposed of, shall be applicable, as nearly as may be, for the like purposes as if this act had not been passed.

Existing contracts, &c., to remain valid.

XCIV. Provided always, that all contracts, agreements, bonds, covenants, or securities made or entered into with or in favour of or by such commissioners or body, or any person in their behalf, or any such officer as aforesaid, before the commencement of this act, shall remain as valid and

18 & 19 VICT. c. 120.

effectual and be proceeded on and enforced as if this act had not been passed; and no action, suit, prosecution, or proceeding commenced or carried on by or against such commissioners or body or any of them respectively shall abate or be discontinued or prejudicially affected by this act, but shall continue and take effect as if this act had not been passed; and all monies coming to such commissioners or body under any such contract, agreement, bond, covenant, security, action, suit or proceeding, and which would have been applicable by them if this act had not been passed for the purposes of any of the duties or powers hereby transferred to any vestry or district board, shall be paid over to such vestry or board, or as they may direct, and be applied for the like purposes; and all monies and liabilities which such commissioners or body, or officer, would have been liable to pay or discharge, under any such contract, agreement, bond, covenant, security, action, suit, or proceeding, out of any rates to be levied under any such powers as aforesaid, if this act had not been passed, and all costs, damages, and expenses which such commissioners or body, or any of them respectively, might, if this act had not been passed, have legally defrayed out of any such rates, shall be paid out of rates to be levied by such vestry or board as hereinafter provided.

Existing commissioners, &c., under local acts continued in office until commencement of this act.

XCV. Where, under the provisions of any local act in relation to the paving, lighting, watering, cleansing, or improving of any parish mentioned in either of the schedules (A.) and (B.) to this act, or any part of any such parish, any election or appointment of any commissioners or persons whose powers are determined by this act is appointed to take place at any time between the time of the passing of this act and the time appointed for the commencement thereof, the commissioners or persons now acting under such local act shall remain in office, and perform and exercise all the duties, powers, and authorities of such act, until the commencement of this act, anything in such local act to the contrary notwithstanding.

Powers and duties of surveyors of highways, and property vested in them, transferred to vestries and district boards.

XCVI. Every vestry and district board shall, within their parish or district (exclusively of any other persons whatsoever), execute the office of and be surveyor of highways, and have all such powers, authorities, and duties, and be subject to all such liabilities, as any surveyor of highways in England is now or may hereafter be invested with or liable to by virtue of his office, under the laws for the time being in force, so far as such powers, authorities, duties, and liabilities are not inconsistent with this act; but all expenses which under any such law ought to be defrayed by highway rates shall be defrayed by means of the rates to be raised under this act, and all monies which would be applicable in aid of such highway rates shall be applied in aid of the said rates to be raised under this act, and no such vestry or board shall be subject to any provisions concerning the accounts of surveyors of highways, or requiring any returns to be made to any special sessions; and all streets being highways, and the pavements, stones, and other materials thereof, and all other things provided for the purposes thereof by any surveyor of highways, or by any person serving the office of surveyor of highways, or by any vestry or district board under this act, shall vest in and be under the management and control of the vestry or district board of the parish or district in which such highways are situate.

Provision as to rates already made in parishes mentioned in schedule (A.)

XCVII. Provided always, that all rates made previously to the commencement of this act for defraying the expenses of executing any duties, powers, and authorities hereby transferred to any vestry or district board, and all highway rates made previously to such commencement, or so much of such respective rates as may not have been levied and paid, shall be levied and collected as if this act had not been passed, and, subject to the payment or retainer thereout of any sum or expenses lawfully payable out of such respective rates, shall, where such rates are levied in a parish mentioned in schedule (A.) to this act, be accounted for and paid over to the vestry of such parish, and shall, where levied in any other parish, be

accounted for and paid over to the board of works for the district in which such parish is comprised, and shall in every case be applied in aid of the rates to be raised for the like purposes under this act in the particular parish or part in which the said rates so made previously to the commencement of this act are levied.

Vestry or district board to cause streets to be paved

XCVIII. It shall be lawful for every vestry and district board from time to time to cause all or any of the streets within their parish or district, or any part thereof respectively, to be paved or repaired when and as often and in such form and manner and with such materials as such vestry or board think fit (*a*), and to cause the ground or soil thereof to be raised or lowered, and the course of the channels running in, into, or through the same to be turned or altered, in such manner as they think proper, and to alter the position of any mains or pipes in or under such street, such alteration to be made subject to the approval of the engineer of the company to which such mains or pipes belong.

Owners possessing freehold of courts, &c., to pave the same.

XCIX. Provided always, that whenever the freehold of any court, passage, or public place, not being a thoroughfare, is vested in the owner of any adjoining house, the paving of such court, passage, or public place shall be done by such owner, if deemed expedient or necessary by the vestry or district board.

Owners of courts to drain them, and keep the pavement, &c., in repair.

C. The owner of any such court, passage, or public place, not being a thoroughfare, shall, if required by the vestry or district board of the parish or district in which the same is situate, to the satisfaction of such vestry or district board sufficiently pave, cover the surface of, or repair the same, and lay, at a proper level, through, over, under, or along such part thereof as such vestry or board may require, a drain, channel, or gutter, and keep such pavement or covering, and drain, channel, or gutter, in good repair, to the satisfaction of such vestry or board; and if any such owner of any court, passage, or public place, not being a thoroughfare, do not sufficiently pave or cover the same as aforesaid, or do not lay down therein such drain, channel, or gutter, or do not repair the same respectively, to the satisfaction of such vestry or board, within fourteen days after notice in writing requiring him so to do has been given to him by such vestry or board, every such person so offending shall forfeit and pay any sum not exceeding five pounds.

Penalty on owners for neglect.

Vaults and cellars under streets not to be made without the consent of the vestry or board.

CI. No vault, arch, or cellar shall be made under any street without the consent of the vestry or district board of the parish or district in which the same is situate; and all such vaults, arches, and cellars hereafter to be made within any parish or district mentioned in either of the schedules (A.) and (B.) to this act shall be substantially made, and so as not to interfere or communicate with any drain or sewer under the control of any vestry or district board, or of the metropolitan board of works, without their consents respectively first obtained; and if any vault, arch, or cellar be made contrary to this provision, it shall be lawful for the vestry or district board, or for the metropolitan board of works, to fill up or alter the same, and the expenses incurred thereby shall be paid by the owner of such vault, arch, or cellar.

Vaults, &c., under streets to be repaired by owners or occupiers.

CII. All vaults, arches, and cellars made either before or after the commencement of this act under any street in any parish or district mentioned in either of the schedules (A.) and (B.) to this act, and all openings into the same in any such street, shall be repaired and kept in proper order by the owners or occupiers of the houses or buildings to which the same respectively belong; and in case any such vault, arch, or cellar be at any time out of repair, it shall be lawful for the vestry or district board of such parish or district to cause the same to be repaired and put into good order, and to recover the expenses thereof from such owner in the manner hereinafter provided.

(*a*) This does not give power to lay down tramways (*R.* v. *Train*, 9 Cox, C. C. 180; 2 B. & S. 640; 31 L. J. M. C. 169).

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Provisions as to the occupation of underground rooms as dwellings.

CIII. Any room of a house the surface of the floor of which room is more than three feet below the surface of the footway of the adjoining street, and any cellar, where such room or cellar is or has been occupied separately as a dwelling at or before the time of the passing of this act, may continue to be so let or occupied if it possess the following requisites; (that is to say),

If there be an area not less than three feet wide in every part from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back, or external side thereof, and extending the full length of such side;

If such area, to the extent of at least five feet long and two feet six inches wide, be in front of the window of such room or cellar, and be open or covered only with open iron gratings;

If there be in every such room or cellar an open fireplace, with proper flue therefrom;

If there be a window opening of at least nine superficial feet in area, which window opening must be fitted with a frame filled in with glazed sashes, of which at the least four and a half superficial feet must be made to open for ventilation:

And no such room nor any cellar not so let or occupied as aforesaid at or before the time of the passing of this act shall be so let or occupied unless it possess the following requisites; (that is to say),

Unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof;

Unless the same be at least one foot of its height above the surface of the footway of the street adjoining or nearest to the same;

Unless there be outside of and adjoining the same room or cellar, and extending along the entire frontage thereof and upwards, from six inches below the level of the floor thereof up to the surface of the said footway, an open area at least three feet wide in every part;

Unless the same be effectually drained and secured against the rise of effluvia from any sewer or drain;

Unless there be appurtenant to such room or cellar the use of a water-closet or privy and an ashpit furnished with proper doors and coverings kept and provided according to the provisions of this act;

Unless the same have a fireplace with a proper chimney or flue;

Unless the same have an external glazed window of at least nine superficial feet in area clear of the frame, and made to open in such manner as is approved by the surveyor of the metropolitan board of works:

Provided always, that in any area adjoining a room or cellar there may be placed steps necessary for access to such room or cellar, and over or across any such area there may be steps necessary for access to any building above the room or cellar to which such area adjoins, if the steps in such respective cases be so placed as not to be over or across any such external window:

And whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, any room or cellar contrary to this act, shall be liable for every such offence to a penalty not exceeding twenty shillings for every day during which the same continues to be so let or occupied; and every room or cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this act; and every district surveyor acting under the act of the session holden in the seventh and eighth years of her Majesty, chapter eighty-four, or under any act repealing or amending the same, shall, without any fee or reward, report periodically, and otherwise, as the said metropolitan board may order, to such board all cases in which rooms or cellars are occupied contrary to this enactment in the district of such surveyor (*a*), and also to the respective vestries and district boards all such cases occurring within such parts of his district as may be within their

(*a*) See 25 & 26 Vict. c. 102, s. 62, *post*.

pective parishes and districts; but nothing herein contained shall be strued to disable other persons from enforcing this enactment, and ing proceedings for penalties thereunder. 1 & 19 VICT. c. 120.

CIV. For the purpose of enforcing the enactment lastly hereinbefore con- ted, it shall be lawful for any such district surveyor or for any other person ing reasonable grounds for believing that any room or cellar is occupied trary to such enactment, to demand admission to inspect the same at time between nine o'clock in the morning and six o'clock in the even- ; and if admission be not granted, any justice having jurisdiction in the ce where such room or cellar is situate may, on oath before him of belief t such room or cellar is occupied contrary to the said enactment, by er under his hand authorise such district surveyor or other person to er into and inspect such room or cellar between the hours aforesaid. Power to district surveyors to enter underground rooms and cellars. If admission refused, justice may issue an order.

CV. In case the owners of the houses forming the greater part of any r street (*a*) laid out or made or hereafter to be laid out or made, which ot paved to the satisfaction of the vestry or district board of the parish district in which such street is situate, be desirous of having the same ed, as hereinafter mentioned, or if such vestry or board deem it neces- y or expedient that the same should be so paved, then and in either of h cases such vestry or board shall well and sufficiently pave the same, er throughout the whole breadth of the carriageway and footpaths reof, or any part of such breadth, and from time to time keep such ement in good and sufficient repair; and the owners of the houses ming such street shall, on demand, pay to such vestry or board the ount of the estimated expenses of providing and laying such pavement ch amount to be determined by the surveyor for the time being of the try or board); and in case such estimated expenses exceed the actual enses of such paving, then the difference between such estimated enses and such actual expenses shall be repaid by the said vestry or rd to the owners of houses by whom the said sum of money has been d; and in case the said estimated expenses be less than the actual enses of such paving, then the owners of the said houses shall, on nand, pay to the said vestry or board such further sum of money as, ether with the sum already paid, amounts to such actual expenses (*b*). Provision for paving new streets.

CVI. The vestry or district board of any parish or district may, if they nk fit, by notice in writing put up in any part of any street in their ish or district, not being a highway, declare their intention of repairing same under this act, and thereupon the same shall be from time to e repaired by them under the authority of this act: *provided always, t no street shall be repaired as last aforesaid unless such notice in iting be also given to all persons interested in such street, or if within month after notice in writing has been put up or given as last afore- d any person interested in such street, or the person representing or itled to represent any person interested as aforesaid, by notice in writing he vestry or board object thereto* (*c*). Vestry or board may declare their intention of repairing any street, not being a highway. *Proviso.*

CVII. Nothing in this act shall extend or be construed to extend to horise the taking down or removing any bar, gate, rail, or other fence d for preventing any thoroughfare into or from any square, street, or y, without the consent of the proprietor of the estate or property upon ich such bar, gate, rail, or other fence, square, street, or way shall situate. Act not to authorise the making any thoroughfare without the consent of the proprietor of the estate.

CVIII. It shall be lawful for every vestry and district board from time time to place any posts, fences, and rails, on the sides of any footways or riageways in their parish or district, for the purposes of safety, and to vent any carriage or cattle from going on the same, and also to place any Vestries and district boards may place fences, &c., to footways.

(*a*) See *R.* v. *Dayman*, 7 E. & B. 642; 26 L. J. M. C. 123.
(*b*) See 25 & 26 Vict. c. 102, s. 77, *post.* (*c*) *Ibid.*, s. 80, *post.*

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posts or other erections in any carriageways so as to make the crossings thereof less dangerous for foot passengers, and also from time to time to repair and renew any such posts, rails, or fences, or to remove the same, or any other obstruction or encroachment on any carriageway or footway.

Notice to be given by companies to vestries and district boards when pavement, &c., is required to be taken up.

CIX. No company or person shall break up or open the pavement, surface, or soil of any street, the paving whereof is under the control and management of the vestry or district board of any parish or district, for the purpose of making and laying down any main of pipes or for any other purpose whatsoever, except in cases of emergency arising from defects in pipes or other works, without having previously given three clear days' notice in writing to such vestry or district board, stating in such notice the name of the street and the particular part thereof in which such pavement, surface, or soil is intended to be broken up or opened, the day on which the work is proposed to be commenced, and the time within which it will be completed; and in any such case of emergency as aforesaid such company or person shall, within twelve hours after they or he begin to break up or open such pavement, surface, or soil, as aforesaid, give such notice as aforesaid to the said vestry or district board; and no such pavement, soil, or surface shall be broken up or opened for the purpose of laying down any new main of pipes for the conveyance of water during any part of the months of December, January, and February, without the consent of the said vestry or district board; and no gaslight company shall at any time break up or open any such pavement, surface, or soil for the purpose of laying down any new mains of pipes, without the consent in writing of the said vestry or district board; and every company or person offending against this enactment shall for every such offence forfeit a sum not exceeding five pounds, and shall, within twenty-four hours after notice in writing from the vestry or district board, cause such mains of pipes to be taken up and removed, and the pavement, surface, or soil to be reinstated and put into its former state: provided always that any gaslight company may break up or open any such pavement, surface, or soil, for the purpose of laying down and attaching to mains and pipes already existing any new service pipes, on giving to the said vestry or district board, three days at least before so doing, notice of their intention to break up or open such pavement, surface, or soil for such purpose.

Streets not to be broken up, except under the superintendence of vestry or board.

Streets broken up to be reinstated without delay.

CX. Whenever it is necessary, from any cause whatever, for any company or person to break up or open the pavement, surface, or soil of any street, such street, and the pavement, surface, and soil thereof, shall be broken up and opened under the superintendence of the vestry or district board of the parish or district in which the same is situate, and in such manner, and as regards gas companies at such time, as they shall direct; and such company or person shall with all convenient speed complete the work on account of which the same is broken up or opened, and fill in the ground and make good the pavement or surface or soil so broken up or opened, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or surface or soil is so broken up or opened to be fenced and guarded, and shall set up and maintain upon or against the part of the pavement, surface, or soil so broken up or opened a sufficient light during every night that such pavement or surface or soil is continued open or broken up.

Penalty on persons taking up pavements neglecting to reinstate them, and to place lights during the night-time

CXI. If any company or person authorised to break up or open any of the pavement or surface of any street, for the purpose of laying, altering, or repairing any gas, water, or other pipe, or other lawful cause, do not with due diligence cause the ground to be filled in, and the pavement to be reinstated, and the surface to be made good, in a proper and substantial manner, or do not in the meantime fence and guard the same, and affix and maintain lights during the night near to the places where any ground is open, so as to prevent any accident, every such company or other person so offending shall for every such offence forfeit a sum not exceeding five

pounds, and also a further sum not exceeding forty shillings, for every day during which such offence continues; and no such pavement shall be considered to have been reinstated in a proper and substantial manner by any such company or other person unless the same have been reinstated with the same or similar materials of the like quality and thickness, and cemented and bound together in the same or in an equally substantial manner, as those of which it was composed, in such manner as is satisfactory to the vestry or board.

to prevent accidents.

CXII. In case any part of the pavement of any street be sunk, broken, injured, or damaged, by reason of the breaking, bursting, or want of repair of any pipe belonging to any water, gas, or other company, it shall be lawful for the vestry or district board of the parish or district in which such pavement is situate, if they deem it expedient so to do, to cause notice to be given to the company to whom such pipe is supposed to belong forthwith well and sufficiently to repair and make good such pavement; and if the company to whom such notice is given do not, within forty-eight hours next after such notice, take up such pavement, and well and sufficiently repair and amend such pipe, and cause the ground to be well and sufficiently filled in and rammed down, and the said pavement to be relaid and repaired, to the satisfaction of the vestry or district board, then such company so offending shall for every such offence forfeit and pay any sum not exceeding twenty pounds.

Vestry or district board to direct pavements injured by water or gas pipes to be repaired by company.

Penalty for neglect.

CXIII. Provided always, that in case it be discovered, after any pavement in any street has been taken up by any company, and the ground opened, that the pipe beneath the surface of such pavement required to be repaired and amended does not belong to the company to whom such notice has been given as aforesaid, but to some other company, then such first-mentioned company to whom such notice has been so given as aforesaid shall, within forty-eight hours after such discovery, cause a copy of such notice to be in like manner given to the company to whom such pipe belongs, and require them to obey, conform to, and comply with the original notice, instead of the company to whom such original notice was given as aforesaid; and such other company to whom such last-mentioned notice is given as aforesaid shall reimburse and pay, on demand, to the first-mentioned company, the reasonable costs and charges incurred in and about the taking up of the pavement and opening the ground; and the said last-mentioned company shall obey, conform to, and comply with the said original notice, and execute and perform the work mentioned therein, in such and the same manner, and within such and the same time, in all respects, as if the said original notice had been given to such last-mentioned company, and they shall be liable to and shall incur the same penalties and forfeitures, on neglect so to do, as they would have incurred and been liable to if the said original notice had been given to them in manner before directed with respect to such first-mentioned company; and if the company by whom such pavement has been first taken up, and who have opened the ground, neglect to give the notice hereby required to the company to whom such pipe actually belongs, such company so neglecting shall for every such offence forfeit and pay any sum not exceeding twenty pounds.

Company opening the ground to repair a pipe discovered to belong to another company, to give notice to such company, and to be reimbursed expenses.

CXIV. Provided also, that whenever the permanent surface or soil of any street is broken up or opened it shall be lawful for the vestry or district board of the parish or district in which the same is situate, in case they think it expedient so to do, to fill in the ground and to make good the pavement or surface or soil so broken up or opened, and to carry away the rubbish occasioned thereby, instead of permitting such work to be done by the company or person by whom such surface or soil is broken up or opened; and the expenses of filling in such ground and of making good the pavement or soil so broken up or opened shall be repaid, on demand, to the vestry or board by such company or person.

Power to vestry or district board to reinstate pavement, and charge the expenses to the parties.

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Power for vestry or district board to contract with company for restoring pavements.

CXV. It shall be lawful for the vestry or district board of any parish or district to contract and agree, for any term of years or otherwise, with the several companies or persons authorised to take up any of the pavements or other formed surface of any of the streets within such parish or district, for the filling in, paving, and restoring of such parts of the said streets as may be from time to time required to be taken up for the purpose of laying, altering, or repairing any pipes or other like purpose.

As to the watering of streets.

CXVI. Every vestry and district board shall have full power and authority to cause all or any of the streets in their parish or district to be watered as often as they think fit, and also to cause any wells to be dug and sunk in such public places as they think proper, and also to erect and fix any pumps in any public places for the gratuitous supply of water to the inhabitants of the parish or district.

Vestry or district board to cause footways to be cleansed.

CXVII. Every vestry and district board shall cause any footway within their parish or district to be scraped, swept, or cleansed in such manner and at such times as they think fit; but this enactment shall not relieve any occupier of any house or building or any company whatsoever from any liability to scrape, sweep, or cleanse, or cause to be scraped, swept, or cleansed, any part of any such footway, or from any penalty for neglect so to do.

Vestries and district boards may appoint and pay crossing sweepers.

CXVIII. It shall be lawful for every vestry and district board to appoint and pay, or for two or more vestries and district boards to unite, when necessary, in appointing and paying, suitable persons to cleanse and sweep, and to keep properly cleansed and swept daily, crossings for passengers over the streets and public thoroughfares within their respective jurisdictions, and in such situations as the said vestries or district boards may from time to time fix and determine, which persons so appointed shall be distinguished by their dress or some distinctive mark as public servants.

Owners, &c., to remove future projections, on notice from vestry or district board.

CXIX. If any porch, shed, projecting window, step, cellar door or window, or steps leading into any cellar or otherwise, lamp, lamp post, lamp iron, sign, sign post, sign iron, showboard, window shutter, wall, gate, fence, or opening, or any other projection or obstruction placed or made against or in front of any house or building after the commencement of this act, shall be an annoyance, in consequence of the same projecting into or being made in or endangering or rendering less commodious the passage along any street in their parish or district, it shall be lawful for the vestry or district board to give notice in writing to the owner or occupier of such house or building to remove such projection or obstruction, or to alter the same in such manner as the vestry or board think fit; and such owner or occupier shall within fourteen days after the service of such notice upon him remove such projection or obstruction, or alter the same in the manner directed by the vestry or board; and if the owner or occupier of any such house or building neglect or refuse, within fourteen days after such notice, to remove such projection or obstruction, or to alter the same in the manner directed by the vestry or board, he shall forfeit any sum not exceeding five pounds, and a further sum not exceeding forty shillings for every day during which such projection or obstruction continues after the expiration of such fourteen days from the time when he may be convicted of any offence contrary to the provisions hereof.

Penalty for neglect.

Vestry or district board may remove existing projections, and make compensation for the same.

CXX. It shall be lawful for every vestry and district board, if any projection or obstruction which has been placed or made against or in front of any house or building in any such street before the commencement of this act shall be an annoyance as aforesaid, to cause the same to be removed or altered as they think fit: provided always, that the vestry or board shall give notice in writing of such intended removal or alteration to the owner or occupier against or in front of whose house or building such projection or obstruction shall be, seven days before such removal or alteration shall be commenced, and shall make reasonable compensation to every person who shall incur any loss or damage by such removal, excepting in cases where

e obstruction or projection may now be removable under any act, in ıich case no compensation shall be made (*a*). 18 & 19 Vict. c. 120.

CXXI. Every person who shall build or begin to build, or to take down or gin to take down, any house, building, or wall, or alter or repair, or begin alter or repair, the outward part of any house, building, or wall, shall, all cases in which the footway is thereby obstructed or rendered incon- nient, cause to be put up a proper and sufficient hoard or fence, with a nvenient platform and handrail, if there be room enough for the same, to rve as a footway for passengers outside of such hoard or fence, and shall ntinue such hoard or fence, in such cases as aforesaid, with such platform d handrail, standing and in good condition, to the satisfaction of the vestry district board of the parish or district in which such house, building, or ll is situate, during such time as may be necessary for the public safety or nvenience, and shall, in all cases in which the same is necessary to prevent cidents, cause such hoard or fence to be well lighted during the night; d every such person who fails to put up such hoard or fence and such ıtform, with such handrail as aforesaid, or who does not, whilst the id hoard or fence is standing, keep the same well lighted during the ght, shall for every such offence forfeit a sum not exceeding five pounds, d a further sum not exceeding forty shillings for every day during the ntinuance of such default. Hoards to be erected during repairs. Penalty on not erecting hoards.

CXXII. It shall not be lawful for any person to erect or set up in any reet any hoard or fence or scaffold for any purpose whatever, or any sts, bars, rails, boards, or other things by way of inclosure, for the pur- se of making mortar, or of depositing bricks, lime, rubbish, or other ıterials, without a licence in writing first had and obtained from the rk or surveyor of the vestry or district board of the parish or district in ıich such street is situate; and every such licence shall state the place ıere and the purpose for which such hoard or fence, scaffold or inclosure, to be set up or made, and the size thereof, and the time for which it is to permitted to continue. No hoard to be erected without licence from vestry or district board.

CXXIII. If any person erect or set up in any street any hoard or fence scaffold for any purpose whatever, or any posts, bars, rails, boards, or her things by way of inclosure, for the purpose of making mortar, or of de- siting bricks, lime, rubbish, or other materials, without a licence from the stry or district board, or do any such act as aforesaid in any other manner an as permitted by such licence, or continue the same beyond the time stated such licence, or fail to keep any hoard, fence, platform, or handrail in od repair, he shall for every such offence forfeit a sum not exceeding five ınds, and a further sum not exceeding forty shillings for every day during e continuance of such offence; and it shall be lawful for the vestry or board cause such hoard, fence, scaffold, or inclosure to be pulled down, and the aterials thereof, and also all the bricks, mortar, lime, or other building aterials, or other matters or things contained within any such inclosure, be removed, and deposited in such place as the vestry or board may ink fit, and to be kept until the charges of pulling down and removing the me be paid to the vestry or board; and in case the same be not claimed id the said charges paid within the space of eight days next after such izure thereof, it shall be lawful for the vestry or board to order the same be sold, and by and out of the proceeds of such sale to pay such charges, ndering any surplus to the owner or other person by law entitled thereto; id in case the proceeds of such sale be insufficent to cover such charges, id the charges of selling and disposing of such materials, matters, and ings, the deficiency shall be repaid by the owner of such materials, atters, and things to the vestry or district board, on demand. If hoard be erected or materials be deposited in any manner otherwise than to the satisfaction of the vestry or district board, the same may be removed.

CXXIV. Every person laying out or opening any new street, or building Providing

(*a*) See *Le Neve* v. *Vestry of Mile End*, 8 E. & B. 1054; 27 L. J. Q. B. 208; 4 Jur., s. 660, *ante*, p. 80.

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against accidents in laying out new streets, &c.

therein, shall, during the operations necessary for forming such new street, or for building therein, take all such precautions for guarding against injury to the passengers along such street as may be directed by the vestry or district board of the parish or district within which such operations are being carried on; and if any person fail to comply with the directions of such vestry or district board, within such time as may be limited by them, such vestry or district board may do whatever may be necessary for carrying the same into effect, and the expenses thereby incurred shall be repaid to such vestry or district board by the person laying out or opening such new street, or building therein, as aforesaid, and shall be recoverable by them from such person in manner provided by this act.

Vestries and district boards to appoint scavengers.

CXXV. It shall be lawful for every vestry and district board and they are hereby required to appoint and employ a sufficient number of persons, or to contract with any company or persons, for the sweeping and cleansing of the several streets within their parish or district, and for collecting and removing all dirt, ashes, rubbish, ice, snow, and filth, and for the cleansing out and emptying of privies and cesspools, sewers and drains, in or under houses and places within their parish or district; and such company or persons are hereinafter referred to as scavengers; and such scavengers or their servants shall, on such days and at such hours and in such manner as the vestry or district board shall from time to time appoint, sufficiently execute and perform all such works and duties as they respectively are employed or contract to execute or perform; and if any such company or person fail in any respect properly to execute and perform such works and duties such company or person shall for every such offence forfeit a sum not exceeding five pounds.

Penalty for obstructing scavengers in performance of their duty.

CXXVI. Any occupier of any house or land or other person who refuses or does not permit any soil, dirt, ashes, or filth to be taken away by the scavengers appointed by or contracting with any vestry or board as aforesaid, or who obstructs the said scavengers in the performance of their duty, shall for every such offence forfeit and pay a sum not exceeding five pounds.

Refuse collected to be vested in vestry or district board, who may dispose of the same towards defraying their expenses.

CXXVII. All dirt, dust, nightsoil, ashes, and rubbish collected as aforesaid shall be the property of such vestry or board, and such vestry or board shall have full power to sell and dispose of the same for the purposes of this act as they shall think proper, and the person purchasing the same shall have full power to take, carry away, and dispose of the same for his own use, and the money arising from the sale thereof shall be applied towards defraying the expenses of the execution of this act, other than the sewerage expenses.

Owners or occupiers to pay scavengers for removal of refuse of trades.

CXXVIII. In case any scavenger be required by the owner or occupier of any house or land to remove the refuse of any trade, manufacture, or business, or of any building materials, such owner or occupier shall pay to the scavenger a reasonable sum for such removal, such sum, in case of dispute, to be settled by two justices.

Dispute as to what is refuse of trade, &c., to be determined by justices.

CXXIX. If any dispute or difference of opinion arise between the owner or occupier of any such house or land and the scavengers required to remove such refuse as to what shall be considered as refuse, it shall be lawful for any two justices, upon application made to them by either of the parties in difference, to determine whether the subject-matter of dispute is or is not refuse of trade, manufacture, or business, or of any building materials, and in every such case the decision of such justices shall be final and conclusive.

Vestries and district boards to cause streets to be lighted.

CXXX. Every vestry and district board shall cause the several streets within their parish or district to be well and sufficiently lighted, and for that purpose shall maintain, or set up and maintain, a sufficient number of lamps in every such street, and shall cause the same to be lighted with gas or otherwise, and to continue lighted at and during such times as such

vestry or board may think fit, necessary, or proper; and all public lamps, and the lamp posts and lamp irons and fittings thereof, to be provided by any vestry or district board, shall vest in such vestry or board. 18 & 19 Vict. c. 120.

No slaughterhouse to be licensed under the 14 & 15 Vict. c. 61, without notice to vestry or district board.

CXXXI. Before any licence for the use of any place within any parish mentioned in either of the schedules (A.) and (B.) to this act as a slaughterhouse is granted by any quarter sessions of the peace under the provisions of the act of the session holden in the fourteenth and fifteenth years of her Majesty, chapter sixty-one (the Metropolitan Market Act, 1851), one month's previous notice of the intention to apply for such licence shall be given to the vestry or district board of the parish or district in which such place is situate, to the intent that such vestry or district board, if they think fit, may show cause against the grant of such licence (*a*).

Vestries and district boards to appoint medical officers of health.

CXXXII. Every vestry and district board shall from time to time appoint one or more legally qualified medical practitioner or practitioners of skill and experience to inspect and report periodically upon the sanitary condition of their parish or district, to ascertain the existence of diseases, more especially epidemics increasing the rate of mortality, and to point out the existence of any nuisance or other local causes which are likely to originate and maintain such diseases, and injuriously affect the health of the inhabitants, and to take cognisance of the fact of the existence of any contagious or epidemic diseases, and to point out the most efficacious mode of checking or preventing the spread of such diseases, and also to point out the most efficient modes for the ventilation of churches, chapels, schools, lodging houses, and other public edifices within the parish or district, and to perform any other duties of a like nature which may be required of him or them; and such persons shall be called "medical officers of health;" and it shall be lawful for the vestry or board to pay to every such officer such salary as they think fit, and also to remove any such officer at the pleasure of such vestry or board (*b*).

Appointment of inspectors of nuisances.

CXXXIII. Every vestry and district board shall nominate and appoint such number of persons to be inspectors of nuisances in their parish or district as the vestry or board may think fit; and the inspectors of nuisances shall superintend and enforce the due execution of all duties to be performed by the scavengers employed or contracted with under this act, and report to the vestry or district board the existence of any nuisances; and the vestry or board shall require every such inspector to provide and keep a book in which shall be entered all complaints made by any inhabitant of the parish or district of any infringement of the provisions of this act, or of any byelaws made thereunder, or of nuisances; and every such inspector shall forthwith inquire into the truth or otherwise of such complaints, and report upon the same to the vestry or board at their next meeting; and such report, and the order of the vestry or board thereon, shall be entered in a book, which shall be kept at their office, and shall be open at all reasonable times to the inspection of any inhabitant of the parish or district; and it shall be the duty of such inspector, subject to the direction of the vestry or board, to make complaints before any justices, and take legal proceedings for the punishment of any person for any offence under this act or any such byelaws.

Vestries and district boards to be the local authorities to execute the nuisances removal acts.

CXXXIV. Every vestry and district board under this act shall execute, within their respective parish or district, all the duties and powers exercisable under the Nuisances Removal and Diseases Prevention Act, 1848, and the Nuisances Removal and Diseases Prevention Act, 1849, by any commissioners or other body, or any officers having under any act powers of cleansing, and shall be the local authority to execute any act passed or to be passed in the present session amending or repealing the said acts or either of them.

(*a*) See 25 & 26 Vict. c. 102, s. 92, *post*. (*b*) *Ibid.*, s. 43, *post*.

18 & 19 Vict. c. 120.

*Duties and powers of metropolitan board of works.*

Main sewers vested in the metropolitan board of works, and power to such board to make sewers.

CXXXV. The sewers mentioned in schedule (D.) to this act, being the main sewers now vested in the commissioners of sewers of the city of London and in the metropolitan commissioners of sewers respectively, with the walls, defences, banks, outlets, sluices, flaps, penstocks, gullies, grates, works, and things thereunto belonging, and the materials thereof, with all rights of way and passage used and enjoyed by such commissioners respectively over and to such sewers, works, and things, and all other rights concerning or incident to such sewers, works, and things, shall be vested in the metropolitan board of works, and such board shall make such sewers and works as they may think necessary for preventing all or any part of the sewage within the metropolis from flowing or passing into the river Thames in or near the metropolis (*a*), and shall cause such sewers and works to be completed on or before the thirty-first day of December, one thousand eight hundred and sixty (*b*), and shall also make all such other sewers and works, and such diversions or alterations of any existing sewers or works vested in them under this act, as they may from time to time think necessary for the effectual sewerage and drainage of the metropolis, and shall discontinue, close up, or destroy such sewers for the time being vested in them under this act as they may deem unnecessary, and such board shall from time to time repair and maintain the sewers so vested in them, or such of them as may not be discontinued, closed up, or destroyed as aforesaid; and for the purposes aforesaid such board shall have full power and authority to carry any such sewers or works through, across, or under any turnpike road, or any street or place laid out as or intended for a street, as well beyond as within the limits of the metropolis, or through or under any cellar or vault under the carriageway or pavement of any street, and into, through, or under any lands whatsoever within or beyond the said limits, making compensation for any damage done thereby as hereinafter provided, and all sewers and works from time to time made by the said board shall vest in them; and the said board shall cause the sewers vested in them to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied, and for the purpose of clearing, cleansing, and emptying the same, they may construct and place, either above or under ground, such reservoirs, sluices, engines, and other works as may be necessary, and may cause the sewage and refuse from such sewers to be sold or disposed of as they may see fit, but so as not to create a nuisance, and the money arising thereby shall be applied towards defraying the expenses of such board.

*Before works for intercepting the sewage are commenced, plans, &c., to be submitted to commissioners of works.*

CXXXVI. *Before the metropolitan board of works commence any sewers and works for preventing the sewage from passing into the Thames as aforesaid, the plan of the intended sewers and works for the purpose aforesaid, together with an estimate of the cost of carrying the same into execution, shall be submitted by such board to the commissioners of her Majesty's works and public buildings; and no such plan shall be carried into effect until the same has been approved by such commissioners* (*c*).

Metropolitan board may declare sewers to be main sewers, and take under their jurisdiction

CXXXVII. In case it appear to the metropolitan board of works that any sewers in the metropolis not hereinbefore vested in such board ought to be considered main sewers, and to be under their management, it shall be lawful for such board, by an order under their seal, to declare the same to be main sewers, and thereupon the same shall vest in and be under the management of the said board; and it shall also be lawful for the said board by any such order to take under their jurisdiction and authority any other matters in relation to sewerage and to drainage with respect to sewerage matters under jurisdiction of vestries and district boards.

(*a*) Owners will be compensated, but the board may execute works under any land without purchasing the same (*Hughes* v. *Metropolitan Board*, 7 Jur., N.S. 986).

(*b*) Extended to 1866. See 26 & 27 Vict. c. 68, s. 6, *post*.

(*c*) See 21 & 22 Vict. c. 104, s. 25, *post*.

which jurisdiction or authority is by this act vested in any vestry or district board. 18 & 19 Vict. c. 120.

CXXXVIII. The metropolitan board of works shall from time to time, in order to secure the efficient maintenance of the main and general sewerage of the metropolis, make such general or special orders as to them may seem proper for the guidance, direction, and control of the vestries of parishes and district boards in the levels, construction, alteration, and maintenance and cleansing of sewers in their respective parishes or districts, and for securing the proper connexion and intercommunication of the sewers of the several parishes and districts and their communications with the main sewers vested in the said metropolitan board, and generally for the guidance, direction, and control of vestries and district boards in the exercise of their powers and duties in relation to sewerage; and all such orders shall be binding upon such vestries and boards (a). Metropolitan board to make orders for controlling vestries and district boards in construction of sewers, &c.

CXXXIX. The metropolitan board of works, where it appears to them expedient that any officer or set of officers necessary for any of the purposes of this act should act for a larger area than is comprised in one parish or district, or for parts of different parishes or districts, may, with the consent of the vestries or boards of such parishes or districts, direct that such vestries or boards shall unite in the appointment and removal of such officer or set of officers; and the said metropolitan board shall in such case direct the mode in which the respective bodies or committees thereof shall act together for the purposes of every such appointment and removal, and the proportions in which the salary or salaries of such officer or officers shall be borne and paid by every such parish and district respectively. Metropolitan board may direct appointments to be made for two parishes or districts jointly.

CXL. It shall be lawful for the metropolitan board of works, where it appears to them that any street or line of street, being in more than one parish or district, should be placed under the exclusive management of one vestry or district board for the purposes of paving, lighting, watering, and cleansing, or any of them, or for the purposes of sewerage and drainage, or for all the purposes of this act, to order that the same shall be under the management of such vestry or board accordingly; and it shall also be lawful for the said metropolitan board, where it appears to them that any part of any parish or district is so detached or situate that it would be convenient for the purposes of sewerage or drainage that the same should be placed under the management of the vestry or district board of any adjoining parish or district, to order that such part shall, for such purposes, be under the management of such vestry or district board. Or may place a street in different parishes under the management of one vestry, or part of a parish under the management of vestry of adjoining parish.

CXLI. *It shall be lawful for the metropolitan board of works from time to time to cause to be painted or affixed on a conspicuous part of some house or building, at or near each end, corner, or entrance of every street in the metropolis, the name of such street; and the board may, where more than one street in the metropolis is called by the same name, alter the name of any or all such streets, except one, to any other name which to such board may seem fit, and which may be approved by the commissioners of her Majesty's works and public buildings; and before any name is given to any new street notice of the intended name shall be given to the said board, and if there be any street in the metropolis called or about to be called by the same name, the said board may, by notice in writing stating that there is already a street in the metropolis called or about to be called by the same name, and describing the locality thereof, given to the person by whom notice of such intended name was given to them, at any time within fourteen days after receipt of such last-mentioned notice, object to such intended name; and it shall not be lawful to set up any name to any new street in the metropolis until the expiration of fourteen days after notice thereof has been given as aforesaid to the said board, or to set up any name objected to as aforesaid; and the owners or occupiers of houses and buildings in the* *Metropolitan board to regulate naming of streets and numbering of houses.*

(a) See 25 & 26 Vict. c. 102, s. 33, *post*.

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*several streets in the metropolis shall mark such houses or buildings with such numbers or names, for the purpose of distinguishing the same, as the said board may direct or approve, and shall renew the numbers or names of such houses or buildings as often as they are obliterated or defaced; and if any occupier of any such house or building neglect for one week after notice from the said board to mark such house or building with such number or name as the said board may direct or approve, or to renew the number or name thereof as aforesaid, he shall be liable to a penalty of not exceeding forty shillings, and the said board may cause such number or name to be so marked or renewed, and recover the expense thereof from the owner of such house or building in manner hereinafter provided; and if any person wilfully or maliciously destroy, pull down, obliterate, or deface the name of any street in the metropolis, or the name or number of any house or building in any such street, or paint, affix, or set up any name to any street, or any name or number to any house or building, contrary to this enactment, he shall for every such offence forfeit a sum not exceeding forty shillings; and it shall be lawful for the said board to cause such name or number so painted, affixed, or set up contrary to their directions to be obliterated or destroyed* (a).

Register to be kept of alterations in names of streets.

CXLII. The said metropolitan board shall keep a register of all alterations made by them in the names of streets, and such register shall be kept in such form as to show the date of every such alteration, and the name of the street previous to such alteration as well as the new name thereof.

*Buildings not to be brought beyond line of street.*

CXLIII. *No building shall, without the consent in writing of the metropolitan board of works, be erected beyond the regular line of buildings in the street in which the same is situate, in case the distance of such line of buildings from the highway do not exceed thirty feet, or within thirty feet of the highway where the distance of the line of buildings therefrom amounts to or exceeds thirty feet, notwithstanding there being gardens or vacant spaces between the line of buildings and the highway; and in case any building be erected contrary to this enactment it shall be lawful for the vestry or district board in whose parish or district such building is situate to cause the same to be demolished or set back (as the case may require), and to recover the expenses incurred by them from the owner of the premises in manner provided by this act* (b).

Power to metropolitan board to make improvements.

CXLIV. The metropolitan board of works shall have power to make, widen, or improve any streets, roads, or ways, for facilitating the passage and traffic between different parts of the metropolis, or to contribute and join with any persons in any such improvements as aforesaid, and to take, by agreement or by gift, any land, rights in land, or property, for the purposes aforesaid (or otherwise) for the improvement of the metropolis, on such terms and conditions as they may think fit; and such board, where it appears to them that further powers are required for the purpose of any work for the improvement of the metropolis or public benefit of the inhabitants thereof (c), may make application to parliament for that purpose, and the expenses of such application may be defrayed as other expenses of the said board: *provided always, that before the metropolitan board of works commence any such works the estimated expense whereof shall exceed fifty thousand pounds the plan of such works, together with an estimate of the cost of carrying the same into execution, shall be submitted by such board to the commissioners of her Majesty's works and public buildings; and no such plan shall be carried into effect until the same has been approved by such commissioners; and no such works shall be commenced in cases where the estimated expense thereof shall exceed the sum of one hundred thousand pounds without the previous sanction of parliament* (d).

(a) See 25 & 26 Vict. c. 102, s. 87, *post*.
(b) *Ibid*., s. 75, *post*.
(c) See 19 & 20 Vict. c. 112 s. 10, *post*.
(d) See 21 & 22 Vict. c. 104, s. 25, *post*.

18 & 19 Vict. c. 120.

*Determination of metropolitan commission of sewers.*

CXLV. From and after the commencement of this act, all duties, powers, and authorities vested in the metropolitan commissioners of sewers shall cease to be so vested; and in the meantime, and until such commencement, the metropolitan commission of sewers, and the act of the session holden in the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, and the acts amending the same, shall continue in force.

Powers of metropolitan commissioners of sewers to cease.

Actions, &c., not to abate, but to continue for or against metropolitan board of works.

CXLVI. No action, suit, prosecution, or other proceeding whatsoever, commenced or carried on by or against the said commissioners, shall abate or be discontinued or prejudicially affected by the determination of the powers of such commissioners, but shall continue and take effect in favour of or against the metropolitan board of works in the same manner in all respects as the same would have continued and taken effect in relation to the said commissioners if this act had not been passed, and the powers of the said commissioners had continued in full force; and all decrees and orders made, and all fines, amerciaments, and penalties imposed and incurred, respectively, previously to the commencement of this act, shall and may be enforced, levied, recovered, and proceeded for, and all administrative proceedings commenced previously to the commencement of this act shall and may be continued, proceeded with, and completed, the metropolitan board of works being, in reference to the matters aforesaid, in all respects substituted in the place of the said commissioners.

Rates made by metropolitan commissioners of sewers to be recoverable under this act.

CXLVII. All rates made by the said commissioners previously to the commencement of this act, or so much thereof as may not have been levied and paid, shall be levied by and paid to the metropolitan board of works, and such board shall have the same rights and remedies in all respects in relation thereto as would have been had and might have been exercised by the said commissioners; but all such rates respectively shall, so far as circumstances admit, be applied to the same purposes as the same would have been applicable to in case the powers of the said commissioners had continued in force, and shall for the purposes of such application (where the circumstances so require) be paid over by the metropolitan board of works, or by their order, to the vestry or district board having the management of the sewers in any parish or district under this act, or as such vestry or board may direct.

Property vested in metropolitan commissioners of sewers (except sewers transferred to vestries and district boards) transferred to the metropolitan board of works.

CXLVIII. All property, matters, and things whatsoever vested in the metropolitan commissioners of sewers, except such sewers as are hereby vested in any vestry or district board, and except such sewers as are not within the limits of the parishes and places mentioned in the schedules to this act, shall be vested in the metropolitan board of works; and all persons who then owe any money to the said commissioners of sewers, or to any person on behalf of such commissioners, shall pay the same to the metropolitan board of works, or as they may direct; and all monies then due and owing by or recoverable from the said commissioners shall be paid by or recoverable from the metropolitan board of works; and all contracts, agreements, bonds, covenants, and securities theretofore made or entered into with or in favour of or by the said commissioners, and all contracts, agreements, bonds, covenants, and securities made or entered with or in favour of or by any former or other commissioners, which under the said act of the eleventh and twelfth years of her Majesty were to take effect in favour of, against, and with reference to the said metropolitan commissioners of sewers, and are now in force, shall take effect and may be proceeded on and enforced, as near as circumstances admit, in favour of, by, against, and with reference to the metropolitan board of works, as the same would have taken effect and might have been proceeded on and enforced in favour of, by, against, and with reference to the said metropolitan commissioners of sewers if this act had not been passed, and the

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powers of such commissioners had continued in full force; and any retiring pension or allowance granted under section twenty-seven of the said act of the eleventh and twelfth years of her Majesty shall continue payable on the like terms by the said metropolitan board of works.

*Auxiliary powers common to the metropolitan board of works and to vestries and district boards.*

CXLIX. The metropolitan board of works, and every district board and vestry, may enter into all such contracts as they may think necessary for carrying this act into execution; and every such contract for works or materials whereof the value or amount exceeds ten pounds shall be in writing or print, or partly in writing and partly in print, sealed with the seal of the board or vestry; and every contract so entered into, and duly executed by the other parties thereto, shall be binding on the board or vestry and their successors, and upon all other parties thereto: provided always, that it shall be lawful for any such board or vestry to compound with any contractor or other person in respect of any penalty incurred by reason of the nonperformance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract or in any bond or otherwise, for such sum of money or other recompence as to the board or vestry may seem proper.

Power to boards and vestries to enter into contracts for carrying act into execution.

Power to compound for penalties in respect of breach of contracts.

Power to boards and vestries to purchase lands, &c., for the purposes of this act.

CL. It shall be lawful for the metropolitan board of works and every district board and vestry to purchase, or to take on lease for such term as they may think fit, any land, or any right or easement in or over any land which they may deem necessary or expedient for the formation or protection of any works which they are authorised to execute under this act, also any offices and other buildings, yards, stations, or places for deposit of refuse, materials, and things, or any land for the erection and formation of such offices and other buildings, yards, stations, or places for deposit; and also to contract for the purchase, removal, or abatement of any milldam, pound, weir, bank, wall, lock, or other obstruction to the flow of water, whereby sewerage or drainage is interrupted or impeded, and for the purchase of any land, or any right or easement in or over any land, which it may be necessary or expedient to purchase to prevent the obstruction of sewerage or drainage; and also to purchase or take on lease as aforesaid the whole or any part of any streams or springs of water, or any rights therein, which it appears to them necessary to acquire and use for the purposes of cleansing sewers and drains and the other purposes of this act, or any land which is deemed by them advisable to purchase or take on lease for the purpose of drawing or obtaining water from springs, or by sinking of wells, and for making and providing reservoirs, tanks, aqueducts, watercourses, and other works, or for any other purpose connected with the works for obtaining such supply of water as aforesaid: provided always, that nothing herein contained shall authorise the said metropolitan board, or any district board or vestry, to use or permit to be used any such works for the purpose of carrying water by supply pipes into any house or factory for domestic, manufacturing, or commercial purposes.

Certain provisions of 8 & 9 Vict. c. 18, incorporated with this act.

CLI. For the purpose of enabling the said metropolitan board, and every district board and vestry, to obtain any land, or any right or easement in or over any land, which they respectively may require for the purposes of this act, "The Lands Clauses Consolidation Act, 1845," except the provisions of that act with respect to the recovery of forfeitures, penalties, and costs, shall, subject to the provisions herein contained, be incorporated with this act; and the provisions of the said act so incorporated with this act which would be applicable in the case of a purchase of any land shall be applicable in the case of the purchase of a right or easement in or over any land; and for the purposes of this act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the metropolitan board, or the district board or vestry, acting under the provisions of the said act and this act, as the case may be,

CLII. Provided always, that the provisions of the said Lands Clauses Consolidation Act "with respect to the purchase and taking of lands otherwise than by agreement" shall not be incorporated with this act, save for enabling the metropolitan board of works to take land, or any right or easement in or over land, for the purpose of making any sewers or works for preventing the sewage or any part of the sewage within the metropolis from passing into the Thames in or near the metropolis, or otherwise for the purpose of the sewerage or drainage of the metropolis: provided also, that no land, or right or easement in or over land, for the purposes aforesaid, shall be taken compulsorily by the said board without the previous consent in writing of one of her Majesty's principal secretaries of state. 18 & 19 Vict. c. 120. Lands not to be taken compulsorily, except by metropolitan board with consent of secretary of state.

CLIII. The metropolitan board of works, before applying for the consent of the secretary of state for taking land, or any right or easement in or over land, compulsorily, as aforesaid, shall publish, once at the least in each of four consecutive weeks, in one of the daily newspapers published in the metropolis, an advertisement describing the nature of the works in respect of which the land, right or easement, is proposed to be taken, naming a place where a plan of the proposed works is open for inspection at all reasonable hours, and stating the quantity of land or the particulars of the right or easement that they require for the purpose of such works, and shall serve a notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of the land intended to be taken, or of the land in or over which such right or easement is intended to be taken, such service to be made four weeks previously to the application to such secretary of state, and such notice shall state the particulars of the land, right, or easement so required, and that the metropolitan board are willing to treat for the purchase thereof, and as to the compensation to be made for the damage that may be sustained by reason of the proposed works. Previous notice to be given.

CLIV. The metropolitan board of works, and any district board or vestry, may sell and dispose of any land purchased by them under this act, and any property whatsoever vested in them under this act, which it may appear to them may be properly sold or disposed of; and for completing and carrying any such sale of any land into effect such board may make and execute a conveyance of the land sold and disposed of as aforesaid unto the purchaser, or as he shall direct, and such conveyance shall be under the seal of the said board or vestry; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the seal of the said board or vestry shall be a sufficient discharge to the purchaser of any such land or any other such property as aforesaid for the purchase money in such receipt expressed to be received: and the money arising from such sale of any land purchased under this act, and (except as hereinafter otherwise provided) of any such property, shall be applied in aid of the rate out of which the expenses of the purchase of such land or providing such property have been or are authorised to be defrayed under this act; and the money arising from the sale of any property vested in any such board or vestry under this act, and which, before becoming so vested, was vested in any commissioners or other body, or in any officer of any commissioners or other body, or in any surveyor of highways, shall be applied in or towards the discharge of any debts or liabilities for the discharge whereof rates are by this act authorised to be raised in the parish or part, to the commissioners or other body for the management of the paving, lighting, or cleansing whereof such property may have belonged before the commencement of this act, and, subject as aforesaid, shall be applied in aid of such rate to be raised under this act in such parish or part as to the board or vestry disposing of such property may seem just; and any such board or vestry may let any land purchased by or vested in them under this act, and which for the time being is not Power to dispose of lands or property not wanted.

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required for the purposes thereof, in such manner and on such terms as such board or vestry may see fit.

Owners of land may on sale reserve a right of pre-emption.

CLV. Provided always, that where any land or any right or easement is or over land is purchased by the said metropolitan board, or any district board or vestry, under this act, it shall be lawful for the owners of or parties entitled to sell or convey such land, right, or easement to reserve upon the sale thereof to such board or vestry in and by the conveyance such right of pre-emption to the person for the time being entitled to the land (if any) from which the land so purchased was severed, or in or over which such right or easement is granted, as is provided by sections 128, 129, and 130 of the said Lands Clauses Consolidation Act; but, except where such right of pre-emption is so reserved, there shall be no such right, notwithstanding the incorporation of the said Lands Clauses Consolidation Act with this act.

Penalty for withholding property transferred to metropolitan board or any vestry or district board.

CLVI. In case any person having the charge, control, or possession of any property, matters, or things vested in the metropolitan board of works, or the vestry of any parish, or any district board, by or under this act, neglect or refuse to give up the same, on demand, to such board or vestry, or such person as they respectively may order, every person so offending shall, upon being convicted thereof before any two justices of the peace, for every such offence forfeit and pay, over and above the value of the property not given up, such sum not exceeding five pounds as the said justices may think fit.

*Regulations as to breaking up turnpike roads.*

CLVII. *The metropolitan board of works, and any vestry or district board, may, where necessary for the purpose of executing any work authorised by this act, open and break up any turnpike road, under and subject to the restrictions and provisions hereinafter contained; that is to say, seven days' previous notice, with a full description of any intended works, shall be left at the office of the commissioners or trustees of the road; and, except by the permission of the said commissioners or trustees, the traffic of the road shall not at one time be stopped or hindered along more than half of its width, nor, if the half left open be of less than the clear width of fourteen feet, along more than one hundred yards in length; and no alteration shall, except by such permission as aforesaid, be made in the inclination of any part of the road of more than one foot in sixty feet; and all work shall be done under the superintendence of the surveyor of the said commissioners or trustees; and the party doing the works shall cause all openings in the road to be effectually secured and fenced, and affix and maintain lights during the night near to the place where the ground is open, so as to prevent accidents; and the said commissioners or trustees are hereby absolved from all liability in respect of any accident arising in consequence of such works; and the party doing the works shall restore every road so opened or broken up to its original state as to surface and materials, and, in order to meet the future expenses consequent on the subsidence of materials newly filled in, shall pay to such commissioners or trustees, on demand, such sum as they shall require for such purpose, not exceeding one shilling for every superficial square yard, and, so far as the works affect the same, shall make good all drainage, paving of water channels, kerbs of footpaths, and other matters and things connected with the maintenance of the road; and in default the surveyor of the said commissioners or trustees may cause the necessary work to be done; and in all cases of expense incurred by any such surveyor, on the default of the party doing the works, such party shall pay such expense to the commissioners or trustees, on demand* (a).

*Provisions for defraying expenses of vestries and district boards.*

CLVIII. Every vestry and district board shall from time to time, by order under their seal, require the overseers of their parish, or of the several parishes in their district, to levy, and to pay over to the treasurer

How sums

(a) See 25 & 26 Vict. c. 102, s. 33, *post*.

of such vestry or board, or into any bank in such order mentioned, and within the time or times thereby limited, the sums which such vestry or board may require for defraying the expenses of the execution of this act (and such orders may be made wholly or in part in respect of expenses already incurred or of expenses to be thereafter incurred); and every such vestry and board shall distinguish in their orders sums required for defraying expenses of constructing, altering, maintaining, and cleansing the sewers or otherwise connected with sewerage, and also, where the act of the session holden in the third and fourth years of King William the Fourth, chapter ninety, or any other act by virtue whereof land is rated in respect of expenses of lighting at a less amount in proportion to the annual value thereof than houses, or is wholly exempted from being rated in respect of such expenses, is in force in any parish, or any part of any parish, at the time of the passing of this act, distinguish, as regards such parish or part, the sums required for defraying expenses of lighting their parish (*a*) or district from sums required for defraying other expenses of executing this act; but every such vestry and board may cause to be raised as expenses connected with sewerage such portion of the expenses incident to the conduct of their business in relation to sewerage, in common with the conduct of their other business under this act, as to such vestry or board may seem just; and the overseers or collectors, in the receipts to be given for the sums levied or collected by them, shall distinguish the rate in the pound required for sewerage expenses, and the rate required for the other expenses of this act.

18 & 19 Vict. c. 120.

to be raised by vestries and district boards for defraying their expenses.

CLIX. Where it appears to any vestry or district board that all or any part of the expenses for defraying which any sum is by such vestry or board ordered to be levied as aforesaid have or has been incurred for the special benefit of any particular part of their parish or district, or otherwise have or has not been incurred for the equal benefit of the whole of their parish or district, such vestry or board may, by any such order, direct the sum or sums necessary for defraying such expenses or any part thereof to be levied in such part, or exempt any part of such parish or district from the levy, or require a less rate to be levied thereon, as the circumstances of the case may require (*b*); and any such board may refrain, where any entire parish ought in their judgment to be so exempt, from issuing an order for levying any money thereon, notwithstanding they may issue an order or orders for levying sums upon any other parish or parishes in their district.

Vestries and boards may exempt parts not benefited by expenditure from payment.

CLX. Where part of any parish is placed for all or any of the purposes of this act under the management of the vestry or district board of an adjoining parish or district, the sums which such vestry or board may require for defraying the expenses of executing this act by such vestry or board in the part so placed under their management shall be from time to time paid, upon their orders, by the vestry of the parish whereof such part is so placed under the management of such other vestry or board, or if such parish is comprised in a district formed by this act, then by the district board of such district; and such sums shall be raised by the vestry or board upon whom such orders are made in like manner as if the expenses in respect whereof the same are required had been incurred by them in executing this act.

Provisions for cases where a part of a parish is placed under the management of the vestry or board of adjoining parish or district.

CLXI. The overseers of the poor of every parish to whom any such order as aforesaid is issued shall levy the amount mentioned therein according to the exigency thereof, and shall for that purpose make separate equal pound rates upon their parish, or the part thereof upon which any sum specified in such order is required to be levied, in respect of each sum thereby

Overseers to collect the rate in the same manner as the poor rate.

(*a*) The rate must be laid over the entire parish. (*St. James's, Westminster*, v. *St. Mary, Battersea*, 2 C. B., N.S. 477; 29 L. J. M. C. 26.)

(*b*) See *Howell* v. *London Dock Co.* (8 E. & B. 212; 27 L. J. M. C. 177), *ante*, p. 128.

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ordered to be levied; that is to say, a separate rate in respect of each sum ordered to be levied for defraying expenses connected with sewerage, to be called a sewers rate; a separate rate in respect of each sum ordered to be levied for defraying expenses of lighting (where a separate sum is ordered to be levied for defraying such expenses), to be called a lighting rate; and a separate rate in respect of each sum ordered to be levied for defraying other expenses of executing this act, to be called a general rate; and shall make such respective rates of such amount in the pound on the annual value of the property rateable as will in their judgment, having regard to all circumstances, be sufficient to raise the sums specified in such order; and such rates shall be levied on the persons and in respect of the property by law rateable to the relief of the poor in the respective parishes, and shall be assessed upon the net annual value of such property ascertained by the rate for the time being for the relief of the poor; and the said overseers shall, for the purpose of levying such rates, proceed in the same manner, and have the same powers, remedies, and privileges, as for levying money for the relief of the poor; and all such rates shall be allowed in the same manner, and be subject to all the same provisions in relation to appeal and to excusing persons from payment on account of poverty and otherwise, as the rate for the relief of the poor in the same parish; and such overseers shall pay to the treasurer of the vestry or board, or otherwise, as in such order directed, the amount mentioned in the order, within the time or respective times specified for that purpose, and the excess, if any, which may have been levied beyond such amount, which excess shall be placed to the credit of the parish or part in which the same has been levied; and the said overseers shall at the time of making any such payment deliver with the money a note in writing signed by them, specifying the amount so paid, which note shall be kept as a voucher for the receipt of that particular amount; and the receipt of the treasurer of the vestry or board, or of any proper officer or person of or belonging to any bank into which such money is so paid, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount.

Public buildings and void spaces now rateable (except churches and burial grounds) to continue rateable.

CLXII. Provided always, that all such hospitals, public schools, and other public buildings, dead walls, and void spaces of ground as are now by law rateable to any rate for the costs and charges of paving or repairing the pavements within any parochial or other district, either separately or jointly with any other object or objects (except only places of religious worship, and burial grounds, or places which have been used for burial grounds, and are not used for any other purpose), shall be rateable under this act to the like extent and for the like objects or purposes as they may now be rated, and the rates to be made in respect of such objects or purposes shall be payable by the persons now liable to pay the same, and be recoverable in like manner, as any rate to which such buildings and spaces of ground are now rateable as aforesaid in respect of the like objects or purposes.

Land to be rated to the sewers rate at one fourth part of its annual value.

CLXIII. Provided also, that any sewers rate raised under this act shall, as regards all land used as arable, meadow, or pasture ground only, or as woodland, orchard, market garden, hop, herb, flower, fruit, or nursery ground, be assessed and levied in the proportion of one fourth part only of the net annual value of such land (*a*).

Existing exemptions in respect of sewers rate to be allowed.

CLXIV. Provided also, that where any property was at the time of the issuing of the first commission under the said act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, entitled to exemption from or to any reduction or allowance in respect of the sewers rate, such exemption, reduction, or allowance shall be observed and allowed in levying any sewers rate under this act (*a*).

Existing

CLXV. Provided also, that in every parish or part of a parish in which

(*a*) See 21 & 22 Vict. c. 104, s. 15, *post*.

the time of the passing of this act the act of the session holden in the rd and fourth years of King William the Fourth, chapter ninety, is in ce, the owners and occupiers of houses, buildings, and property other n land shall be rated to every lighting rate made under this act at a e in the pound three times greater than that at which the owners and upiers of land shall be rated in such lighting rate (*a*); and in every ish or part of a parish in which under any other act land is now rated respect of expenses of lighting at a less amount in proportion to the ual value thereof than houses, or is now wholly exempted from being ed in respect of such expenses, such land shall continue to be rated to ry lighting rate made under this act at such less amount, or, where h land is now wholly exempted as aforesaid, shall be wholly exempted m such rate.

Exemptions of land from lighting rates to be allowed.

CLXVI. In case the amount ordered by any such order as aforesaid to paid by the overseers of any parish be not paid in manner directed by h order and within the time therein specified for that purpose, it shall lawful for any justice of the peace, upon the complaint by the vestry or rd, or by any person authorised by them for this purpose, to issue his rrant for levying the amount, or so much thereof as may be in arrear, distress and sale of the goods of all or any of the said overseers; and in e the goods of all the overseers be not sufficient to pay the same, the ears thereof shall be added to the amount of the next levy which shall directed to be made in such parish for the purposes of this act, and ll be collected by the like methods.

Overseers on non payment of the rate shall be distrained upon; and in default of sufficient distress the arrears may be levied on the parish.

CLXVII. Where the vestry of any parish mentioned in schedule (A.) to s act make the rate for the relief of the poor in such parish, such vestry ll from time to time raise and levy the sums required for defraying their enses of executing this act in like manner as overseers are required to with respect to the sums for which orders are made upon them by any try under this act, and shall, in raising such sums, act upon the like nciples and have the like discretion as any vestry making orders upon rseers under this act; and where any parishes maintain their poor in mon by a common rate, the orders for levying any money by this act ected to be made on the overseers of such parishes shall be made on the rseers by law authorised to levy such rate thereon, and such sums shall levied by such overseers, in manner provided by this Act, as if such ishes were one parish.

Provision for cases where the vestry of any parish in schedule (A.) make the poor rate.

CLXVIII. Any vestry or district board may, in case of any default or glect of any overseers to pay the amount required by any such order as resaid within the time and in the manner directed by such order, and said metropolitan board may, in case of any default or neglect of any stry or district board to pay the amount required by any precept of the d metropolitan board within such time and in such manner as may be rein mentioned, appoint persons to levy any money required by such stry or board for the purposes of this act in any parish or district, and ch persons shall proceed in the same manner, and have the same powers, medies, and privileges, and be subject to the same regulations and nalties, with reference to the levying of such money, as any overseers uld have had or been subject to with reference to levying any such ney in pursuance of an order of the vestry or district board, or, where e same might be levied by the vestry under this act, as such vestry uld have had or been subject to with reference to levying the same.

Special persons may be appointed to levy rates in certain cases.

CLXIX. As between landlord and tenant, every tenant, whether his nancy have commenced before or after the passing of this act, and who if is act had not been passed would have been entitled to deduct against or be repaid by his landlord any sum paid by such tenant on account of the

Provision for deduction by tenants of sewers rate.

(*a*) See *R.* v. *Southwark, &c., Co.*, 6 E. & B. 1008, 3 Jur., N. S. 411.

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sewers rate, shall in like manner be entitled to deduct against or to be repaid by his landlord any sewers rate levied on him under this act (*a*).

Provisions for defraying expenses of metropolitan board.

CLXX. *The metropolitan board of works shall from time to time ascertain and assess upon the city of London and the other parts of the metropolis the sums which in their judgment ought to be charged upon the said city and such other parts respectively for defraying the expenses of the said board in the execution of this act, having regard to the annual value of the property in the several parts of the metropolis, and having regard, in the case of expenditure on works of drainage, to the benefit derived from such expenditure by the several parts of the metropolis affected thereby; and any such sum may be so assessed wholly or in part in respect of expenses already incurred or of expenses to be thereafter incurred; and for the purposes of such assessment the annual value of the property in such several parts shall be estimated according to the estimate or basis on which the county rate is assessed, or, where there is no such county rate, according to a like estimate* (*b*).

*Sums to be assessed upon the city and other parts of the metropolis by metropolitan board for defraying expenses.*

Power to metropolitan board, or any one authorised by them, to inspect rates made for county or part of county within the metropolis.

CLXXI. The clerk of the said metropolitan board, or any person authorised by the said board in this behalf, may from time to time inspect any rate made or to be made for any county any part of which is within the metropolis; and any basis or standard for the county rate of any such county, and any returns concerning all or any of the parishes and places, whether parochial or extra-parochial, in the metropolis, delivered or to be delivered in pursuance of any act relating to county rates, and any rate made by the commissioners of sewers of the city of London, and any valuation on which the same is made, and may take copies or extracts from any such rates, basis or standard, returns or valuation, without payment of any fee or reward (*c*); and if any person having the custody of any such rate, basis or standard, return or valuation, wilfully neglect or refuse to permit any such clerk or person authorised as aforesaid to inspect the same, or to take copies or extracts of or from the same, at all reasonable times, he shall forfeit for every such offence any sum not exceeding ten pounds.

Payment to be obtained from the city and from parishes by precepts to the chamberlain of the city and to vestries and district boards.

CLXXII. For obtaining payment of the sums so assessed upon the city of London and the parishes mentioned in schedules (A.) and (B.) to this act, the said board shall issue precepts under their seal, requiring payment thereof to their treasurer, or into any bank therein mentioned, within such time as may be therein limited, and every such precept for any sum assessed upon the city of London shall be directed to the chamberlain of the said city; and every such precept for any sum assessed upon any parish mentioned in schedule (A.) to this act shall be directed to the vestry thereof; and every such precept for any sum assessed upon any district mentioned in schedule (B.) to this act, or any parish comprised therein, shall be directed to the board of works for such district; and where any such sum is assessed upon any part of any parish or district, the said metropolitan board shall specify in their precept the part of such parish or district upon which such sum is assessed.

Payment of sums assessed upon the city.

CLXXIII. The chamberlain of the city of London shall, out of any monies in the chamber of the said city, pay to the treasurer of the metropolitan board of works, or otherwise as they may direct, the sums required by their precepts, within such time as may be therein mentioned; and all payments so made by the said chamberlain shall be charged by him against and reimbursed to him out of any rates which the commissioners of sewers of the city of London are authorised to direct to be made under any act relating to the sewerage of the said city; and such commissioners shall have full power to raise every such sum by any such rate which they may

(*a*) See 21 & 22 Vict. c. 104, s. 15, *post*.
(*b*) See 25 & 26 Vict. c. 102, s. 5, *post*.
(*c*) See 21 & 22 Vict. c. 104, s. 16, *post*.

be authorised to direct to be made as aforesaid, or by any addition thereto. 18 & 19 Vict. c. 120.

CLXXIV. All sums which any vestry or district board may be required to pay by such precepts as aforesaid shall be paid by such vestry and board respectively within such time as may be therein mentioned, and shall be raised in like manner as if the same were required by the said vestry or board for defraying the expenses of such vestry or board in the execution of their powers and duties under this act in relation to the sewerage of their parish or district. Payment by vestries and district boards of sums assessed by metropolitan board.

CLXXV. The sums which may be assessed from time to time upon any place mentioned in schedule (C.) to this act, or such part thereof as may not be comprised within any parish, or the city of London, shall be raised by means of a rate to be made and levied as herein provided; that is to say, the said metropolitan board shall from time to time, by warrant under their seal, appoint a proper person to be an assessor, for the purpose of assessing the full and fair annual value of all property in every such place, or such part thereof as aforesaid, which, if the same were not extra-parochial, would be liable to be rated to the relief of the poor, and rating the same to a rate to be levied under this act; and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make, sign, and return to the said board an assessment for the place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of rate charged on the inhabitants or occupiers thereof, and when the premises are unoccupied, the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expenses such remuneration as the said board may think fit; and the same shall be paid out of the amount of the rate which shall be collected after such assessment; and the said rate to be levied as aforesaid shall, for the purposes of the provisions of this act relating to exemption from and reduction or allowance in respect of sewers rate, and relating to deduction and repayment of sums paid on account of sewers rate, be deemed a sewers rate. Provision for assessing and levying rates in places where there is no poor rate. Mode of making the assessment. Allowance to assessors.

CLXXVI. Provided always, that the places mentioned in schedule (C.) to this act which are not now under rating for sewers shall not be liable to be rated under this act, except for the purpose of their contributing to the expense of carrying into effect any plan for preventing the sewage of the metropolis from flowing into the river Thames in or near the metropolis, so far as such places respectively shall be benefited. Places in schedule (C.) not now under rating for sewers not to be rated except for intercepting sewers.

CLXXVII. When such assessment has been allowed by the said board, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel or some other conspicuous part of the place to which such assessment relates, upon the Sunday next or next but one after the same has been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or owner or occupier of property included in such assessment to inspect the same, and to make any extracts therefrom, without payment of any fee or reward; and if such person wilfully neglect or refuse to permit any such inhabitant, owner, or occupier to inspect such assessment or to make any extract therefrom, he shall, on conviction thereof before any two justices of the peace, forfeit for every such offence such sum, not exceeding five pounds, as the justices think meet. When assessment is made, notice thereof to be given, and all persons included in the assessment to have liberty to inspect it, &c. Penalty for refusing inspection.

CLXXVIII. The said board shall from time to time nominate one or more person or persons for levying the amount of rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and be subject to the same regulations and penalties, with reference to the levying of such rate, as if he or they As to the collection of the rate charged in such assessment.

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were an overseer or overseers of the poor in a place rated to the relief of the poor, and shall pay over the amount of such rate to the treasurer of the said board or otherwise as the said board may direct, or in default thereof shall be proceeded against in the same manner as overseers are by this act to be proceeded against for nonpayment.

Appeal against assessment.

CLXXIX. Provided always, that if any person who has paid the amount of rate charged upon him by the assessment made by an assessor appointed under this act think himself aggrieved by such assessment, on the ground that such assessment includes property for which he is not rateable under this act, or that it assesses his rateable property beyond its full and fair annual value, or that any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions for the county or franchise in which the cause of appeal arises, not less than twenty-one days after public notice of such assessment has been given as hereinbefore mentioned; provided that the person so intending to appeal shall give to the said board a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions, and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county or franchise, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded; and in case such person appeal on the ground that any person is omitted out of the assessment, or that the property of any person is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the said board, and enter into such recognizance as aforesaid, but shall also give a like notice of appeal to the person so interested in the event of such appeal as aforesaid; and the person so interested shall, if he desire it, be heard upon the appeal; and the justices of the peace at such sessions or some adjournment thereof, upon due proof of the notice having been given, and of the recognizance having been entered into as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party, as the said justices think proper; and in case the said justices think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and in case he have appealed on the ground that any person is omitted out of the assessment, the said justices may order the name of such person to be inserted in the assessment, and to be therein rated at such amount as they deem just; and in case the appellant have appealed on the ground that the property of any person is assessed below its full and fair annual value, the said justices may order the amount at which such person is rated in the assessment to be altered in such manner as they deem just; and the proper officer of the court shall in each of the cases aforesaid forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive.

The assessment may be altered to relieve the appellant, without altering any other part of it.

*Provisions for discharging existing liabilities of boards or bodies having powers of paving, &c., and of the metropolitan commissioners of sewers.*

CLXXX. All debts and liabilities legally charged upon or payable out of any rates or assessments authorised to be levied or made under any act relating to the paving, lighting, watering, cleansing, or improving of any parish in either of the schedules (A.) and (B.) to this act, or any part of any such parish, shall be charged upon the rates (other than those to be raised for defraying expenses of sewerage, and (where separate rates are made under this act for defraying expenses of lighting,) expenses of lighting,) to be raised under this act in such parish or part, and the several district boards and vestries shall cause the sums necessary for discharging

Provision

ch debts and liabilities to be raised in their respective districts and rishes accordingly; and such boards and vestries shall once in every year ; aside, out of the rates charged under this act with such debts and bilities, such sum as they think proper, not being less than such per- ntage as hereinafter mentioned; (that is to say), three pounds per ntum where the amount of principal debt (exclusive of annuities) does ; exceed one-fourth of the rateable value of the property rateable for yment thereof, and in other cases two pounds per centum on the amount the principal debt (exclusive of annuities), for the purpose of paying off h principal, except where the interest only of such debt is charged m such rates or assessments as aforesaid, and except also where any h debt was contracted under the authority of a local act, and the local did not require that the principal of such debt should be paid off within imited time; and the sums so from time to time set aside, and all nies applied in augmentation thereof, and the proceeds thereof re- ctively, shall be applied and dealt with, for the purpose of paying off h principal as aforesaid, in manner by this act provided with respect to ns set aside for the purpose of providing a fund for paying off mortgages nted under this act: provided always, that where any debts or liabilities charged on any rates or assessments not wholly levied or made in or upon y one parish mentioned in schedule (A.) to this act, or any one district ntioned in schedule (B.) to this act, the metropolitan board of works shall portion such debts and liabilities between the respective parishes and tricts in or upon which such rates or assessments are authorised be levied or made, and shall certify to the district board and vestry spectively of every such district and parish the amount of the appor- ned part of such debts and liabilities to be discharged by rates to be ised in such parish or district, or any part thereof, under th s act, and ch apportioned part shall be discharged accordingly: provided also, at nothing in th s enactment shall affect the right of any creditor to quire payment of any such debt as aforesaid within any less time than is rescribed by this enactment for the payment thereof.

18 & 19 Vict. c. 120.

for discharging existing liabilities under local acts relating to paving, &c.

CLXXXI. Notwithstanding the determination or expiration of the said st of the eleventh and twelfth years of her Majesty, chapter one hundred nd twelve, all mortgages, annuities, securities, and other debts and abilities which at or immediately before such determination or expiration ay be a charge on or payable out of all or any of the rates authorised to e levied thereunder shall continue in full force, and be a charge on the istricts or parts in which such rates would have been authorised to be rvied in case such act had continued in force, and all persons who may be ntitled to any such mortgages, annuities or debts shall have priority in espect of all monies advanced before the passing of this act over any ionies advanced to the metropolitan board of works under this act, and hall have the like priority among themselves as they are now entitled to nder the said act of the eleventh and twelfth years of her Majesty, chapter ne hundred and twelve, or any act continuing or amending the same; and he sums from time to time becoming payable under or required for pay- ent of the said mortgages, annuities, securities, debts, and liabilities hall be raised by the metropolitan board of works in such districts or arts in like manner as the expenses of such board in the execution of his act; and in case any such district or part be wholly or in part with- ut the limits of the metropolis, as defined by this act, the said metropo- tan board shall from time to time issue precepts under their seal to the verseers of the parish or parishes in which any part without such limits is mprised, requiring payment to the treasurer of the said board or into ny bank in such precepts respectively mentioned, within such respective mes as may be therein limited, of such sums as it may be necessary to ise in such part for the purposes aforesaid; and the provisions herein ntained respecting the levying and payment of money by overseers in

Provision for payment of liabilities of metropolitan commissioners of sewers.

18 & 19 Vict. c. 120.

pursuance of any order of a vestry or district board shall be applicable, *mutatis mutandis*, to and for the levying and payment of money by overseers in pursuance of any such precept as aforesaid of the said metropolitan board; and the said board shall once in every year set aside such sum as they think proper, not being less than two pounds per centum on the amount of all principal monies (exclusive of annuities) becoming payable by them under this enactment, for the purpose of paying off all such principal monies; and the sums so from time to time set aside, and all monies applied in augmentation thereof, and the proceeds thereof respectively, shall be applied and dealt with, for the purpose of paying off such principal monies as aforesaid, in manner by this act provided with respect to sums set aside for the purpose of providing a fund for paying off mortgages granted under this act, and the sums to be so set aside shall be raised by such board in manner aforesaid.

Where metropolitan commissioners of sewers have incurred expenses to be paid by improvement rates, &c., the metropolitan board may levy such rates as remain due.

CLXXXII. Where the metropolitan commissioners of sewers have incurred any expenses authorised by the said act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, to be paid by an improvement rate, or as charges for default, it shall be lawful for the metropolitan board of works to levy improvement rates or charges for default for the recovery of the whole of such expenses, or such portion thereof as shall still remain due and unpaid, in the manner directed by the said act, and the said board shall have all the rights and remedies for the recovery thereof which are now vested in the metropolitan commissioners of sewers in this behalf.

*General powers to metropolitan and district boards and vestries to borrow.*

CLXXXIII. It shall be lawful for the metropolitan board and every district board and vestry, for the purposes of defraying any expenses incurred or to be incurred by them in the execution of this act, to borrow and take up at interest, on the credit of all or any of the monies or rates authorised to be raised by them under this act, any sums of money necessary for defraying any such expenses (*a*); and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such board or vestry may mortgage and assign over to the persons by or on behalf of whom such sums are advanced the respective monies or rates upon the credit of which such sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the monies or rates comprised in their respective mortgages, according to the sums in such mortgages mentioned to have been advanced; and each mortgagee shall be entitled to be repaid the sums so advanced, with interest, without any preference over any other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage: provided always, that no monies shall be so borrowed by any district board or vestry without the previous sanction in writing of the said metropolitan board.

Power to boards and vestries to borrow money on mortgage.

No priority amongst mortgagees.

Power to commissioners acting under 14 & 15 Vict. c. 23, to make advances.

CLXXXIV. It shall be lawful for the commissioners acting in the execution of an act passed in the session holden in the fourteenth and fifteenth years of her Majesty, chapter twenty-three, "to authorise for a further Period the advance of Money out of the Consolidated Fund to a limited Amount for carrying on Public Works and Fisheries and Employment of the Poor," and any act or acts for amending or continuing the same, to make advances to any such board or vestry upon the security of all or any of the monies or rates to be raised by them under this act, and without requiring any further or other security than a mortgage of such monies or rates.

Form of mortgage.

CLXXXV. Every mortgage authorised to be made under this act shall be by deed duly stamped, truly stating the date, consideration, and the time of payment, and shall be sealed with the seal of the board or vestry, and may be made according to the form (E.) contained in the schedule to this act annexed, or to the like effect, or with such variations or additions

(*a*) See 25 & 26 Vict. c. 102, s. 100, *post*.

in each case as the board or vestry and the party advancing the money intended to be thereby secured may agree to; and there shall be kept at the office of the board or vestry a register of the mortgages made by them, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and descriptions of the parties thereto, as stated in the deed; and every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Register of mortgages.

Repayment of money borrowed at a time agreed upon.

CLXXXVI. The board or vestry making any such mortgage may, if they think proper, fix a time or times for the repayment of all or any principal monies borrowed under this act, and the payment of the interest thereof respectively, and may provide for the repayment of such monies, with interest, by instalments or otherwise, as they may think fit; and in case the board or vestry fix the time or times of repayment they shall cause such time or times to be inserted in the mortgage deed; and at the time or times so fixed for payment thereof such principal monies and interest respectively shall, on demand, be paid to the party entitled to receive the same accordingly; and if no other place of payment be inserted in the mortgage deed, the principal and interest shall be payable at the principal office of the board or vestry, and, unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly; and if no time be fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the board or vestry may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee shall be given in manner herein provided for service of notices on the board or vestry, and if given by the board or vestry shall be given either personally to such mortgagee or left at his residence, or if such mortgagee or his residence be unknown to them, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London Gazette; and if the board or vestry have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the board or vestry fail to pay the principal and interest due at the expiration of such notice on such mortgage.

Interest on mortgages to be paid half-yearly.

As to repayment of money borrowed when no time has been agreed upon.

Interest to cease on expiration of notice to pay off a mortgage debt.

Power to borrow to pay off existing securities.

CLXXXVII. It shall be lawful for the said metropolitan board, with respect to any security granted by the metropolitan commissioners of sewers, or granted by such board under this act, and for every district board and vestry, with respect to any security for any existing debt or liability which such board or vestry are by this act required to discharge, and any security granted by such board or vestry under this act, to raise and borrow the monies necessary for paying off such security, and to pay off the same; and the monies borrowed for the purpose of such payment shall be secured and repaid in like manner as if borrowed for defraying the expenses of the execution of this act: provided always, that nothing herein contained shall extend to authorise the paying off of any security otherwise than in accordance with the provisions thereof.

Payment of principal and interest may be enforced by

CLXXXVIII. If at the expiration of six months from the time when any principal money or interest has become due upon any mortgage made under this act, or under the said act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, or any act continuing or

18 & 19 Vict. c. 120.

amending the same, and after demand in writing, the same be not paid, the mortgagee may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are hereby empowered, after hearing the parties, to appoint, in writing under their hands and seals, some person to collect and receive the whole or a competent part of the monies or rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and the costs of collection, are fully paid; and upon such appointment being made all such monies or rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees, and shall be rateably apportioned between or among them, but subject and without prejudice to such rights of priority, if any, as shall then be subsisting between the mortgagees or any of them: provided always, that no mortgagee shall be prejudiced, either directly or indirectly, by any loss which may be occasioned by the misapplication or non-application of any monies or rates received by any receiver appointed otherwise than upon the application or with the express consent of such mortgagee, or by any act, deed, neglect, or default on the part of such receiver, but such loss shall be wholly borne by the mortgagee or mortgagees upon whose application or with whose express consent such receiver was appointed: provided also, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application be made by two or more mortgagees to whom there may be due, after such lapse of time, and demand, as last aforesaid, monies collectively amounting to that sum.

the appointment of a receiver.

Transfer of mortgages.

CLXXXIX. Any mortgagee or other person entitled to any mortgage under this act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the schedule (F.) to this act annexed, or to the like effect; and there shall be kept at the office of every board and vestry making any mortgages under this act a register of the transfers of such mortgages; and within thirty days after the date of any such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the board or vestry making the mortgage; and such clerk shall, upon payment of the sum of five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and upon any transfer being so registered, the transferee, his executors, administrators, or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby; and every such transferee may in like manner transfer his estate and interest in any such mortgage; and no person, except the person to whom the same has been last transferred, his executors, administrators, or assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby.

Register of transfers.

Sinking fund to be formed for paying off mortgages.

CXC. For the purpose of providing a fund for paying off mortgages granted under this act, the board or vestry granting such mortgage shall once in every year set aside, out of the monies or rates charged thereby, such sum as they think proper, being not less than two pounds per centum on the amount of the principal monies secured thereby; and the sum so from time to time set aside, and all other monies applied by the board or vestry in augmentation of the said fund, shall be applied, in the manner hereinafter directed, in payment, so far as the same will extend, of the principal money secured by such mortgages, or the same shall be invested in the public funds, or on government or real security, in the name of the

ard or vestry; and the dividends and interest of the monies so invested, 18 & 19 Vict. c. 120.
ien and as the same become due, shall from time to time be received
d invested in like manner, in order that the said monies so set aside and
rested may accumulate at compound interest; and when such accumu-
ed fund amounts to a sum which, in the opinion of the board or vestry,
a be conveniently applied for that purpose, the stocks, funds, or securi-
s whereon the same is invested shall be sold or otherwise converted into
ney, and the monies arising from any such sale and conversion shall be
plied, in the manner hereinafter directed, in payment, so far as the same
ll extend, of the said principal monies, and so from time to time until
e whole of the said principal monies are discharged.

CXCI. When and as often as the board or vestry are enabled and think Mode of paying off mortgages.
expedient to pay off one or more of the said mortgages, they shall cause
e several numbers of such mortgages to be written upon distinct slips of
per of an equal size, and all such slips shall be rolled or folded up in a
nilar form, and put in a box, and the clerk of the said board or vestry
all, at a meeting of the board or vestry, draw separately out of the said
x one of the said slips, and thereupon the mortgage corresponding with
e number so drawn shall be paid off by the board or vestry; and after
ery such ballot the board or vestry shall cause a notice, signed by the
rk, to be given to the person entitled to the money to be paid off, and
ch notice shall express the principal sum proposed to be paid off, and
at the same will be paid, together with the interest due thereon, at a
ace to be specified in such notice, at the expiration of six months from
e date of giving such notice; and at the expiration of such period the
terest of the principal money to be paid off shall cease, unless such prin-
al money and interest be not paid, on demand, pursuant to such notice;
t such principal money, and the interest thereof to the end of the said
: months, shall nevertheless be payable, on demand.

CXCII. The metropolitan board of works, every district board, and the *Audit of accounts.*
stry of every parish mentioned in either of the schedules (A.) and (B.)
this act, shall, in the month of April in every year, cause their accounts Accounts of metropolitan board, district boards, and vestries to be balanced up to the end of each year.
be balanced up to the twenty-fifth day of March next preceding, and
all cause a full statement and account to be drawn out of the amount of
l contracts entered into and of all monies received and expended by them
uring the preceding year, under the several distinct heads of receipt and
penditure, and also of all arrears of rates and other monies then owing
such respective board or vestry, and of all mortgages and other debts
d liabilities then owing by such board or vestry: provided always, that
here by reason of the time established by or under any local act for
aking and collecting rates in any parish the time hereby fixed for making
the accounts is inconvenient, it shall be lawful for the metropolitan
ard of works to order that the time of making and collecting such
tes, and the period for which any such rate may be made, shall be altered
to the said board may appear convenient.

CXCIII. One of her Majesty's principal secretaries of state shall, in the Auditor of accounts of metropolitan board to be appointed by secretary of state and remunerated by the board.
onth of April in every year, by order under his hand, appoint some fit
rson to be the auditor of the accounts of the said metropolitan board for
e preceding year; *and every such auditor shall be paid by such board*
*t exceeding five guineas for every day he is fully employed on such audit,*
*d all expenses he is put to in the auditing of such accounts; provided*
*ways, that such payment shall not exceed fifty guineas* (a).

CXCIV. Every district board shall, in the month of April in every year, Auditors to be elected annually by the district boards.
ect by ballot from among the persons acting as auditors for the parishes
the district three persons not being members of such board, to be audi-
rs for the current year of the accounts of such board; and in case of the
ath of any such auditor the board by whom he was elected shall forth-

(a) See 25 & 26 Vict. c. 102, s. 114, *post.*

18 & 19 Vict. c. 120.

with elect in a similar manner some other such person as aforesaid in his place, and the powers hereby given to the said auditors may be exercised by any two of them.

As to the audit of accounts.

CXCV. The auditor of the accounts of the said metropolitan board, and the auditors of the accounts of every district board and every such vestry as aforesaid, shall, in the month of May, on such day or days as shall be fixed by him or them for the audit of such respective accounts, attend at the office or principal office of the metropolitan board of works, or of such district board or vestry (as the case may require), for the purpose of auditing their accounts; and such respective boards and every such vestry shall, by their clerks, treasurers, and other officers, produce and lay before such auditor or auditors at every such audit their accounts for the year preceding, together with the statement and account hereinbefore mentioned, accompanied by proper vouchers for the support of the same, and submit to his or their inspection all books, papers, instruments, and writings in their custody or control relating thereto; and such auditor or auditors, in the presence of such of the members of such respective boards or vestries and of the ratepayers and creditors on the rates as desire to attend, shall audit the accounts hereinbefore mentioned, and may examine any of the members of such respective boards or vestries or their officers whom he or they shall deem accountable (and whom he and they is and are hereby empowered to summon, by writing under his or their hand or hands, or under the hand of any one of them, to appear before him or them for the purpose of such examination), touching the said accounts, and shall also hear any complaint which any such ratepayer or creditor shall at the time of such audit make touching such accounts; and such auditor or auditors shall have full power to examine, audit, allow, and disallow the said accounts and items therein, and shall charge in such accounts all sums (if any) which ought to be accounted for, and are not brought into account; and if such accounts be found correct, such auditor or auditors, or the major part of them, shall sign the same in token of his or their allowance thereof, and such allowance shall be final and conclusive on all parties (a).

Abstract of accounts to be made.

CXCVI. The auditor or auditors of the accounts of the metropolitan board of works, and of every district board and vestry, shall, after such audit of accounts as aforesaid, cause an account in abstract to be prepared, showing the receipt and expenditure under this act for the preceding year, under the several distinct heads of receipt and expenditure, with the statement of the allowance of the auditor or auditors, if he or they has or have allowed such accounts, or of the parts, if any, which he or they have disallowed of such accounts, and also a summary statement of all contracts entered into by such board or vestry in such preceding year, and of the monies owing to and debts and liabilities owing by such board or vestry on the 25th day of March next preceding.

Accounts of other parochial boards to be audited by the auditors elected under this act.

CXCVII. In all parishes mentioned in the schedules (A.) and (B.) to this act, in which other boards have control over any part of the parochial expenditure, the auditors of accounts of the parish elected under this act shall have the same power of examining the accounts and officers of the said boards as of examining the accounts and officers of the vestry, and shall audit the accounts of the said boards in the same manner as they audit the accounts of the vestry, and the accounts of the said boards shall not be subject to any other audit: provided always, that nothing herein contained shall apply to accounts which if this act had not been passed would have been subject to the audit of any auditor already or hereafter appointed under the authority of the act of the session holden in the fourth and fifth years of King William the Fourth, chapter seventy-six, or any act incorporated therewith.

(a) See 25 & 26 Vict. c. 102, s. 38, *post*.

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*Annual reports.*

Annual reports by vestries and district boards.

CXCVIII. Every such vestry as aforesaid and district board shall in the month of June in every year cause to be printed the said account in abstract and summary statement for the preceding year, relating to such vestry or board, and also make and cause to be printed therewith a report of their proceedings in the execution of this act, and of the works commenced and completed respectively in the preceding year by such vestry or board, and the works remaining in progress at the termination of such year, and also of any proceedings taken by them or under their authority in the preceding year, in pursuance of any regulations of the general board of health for the time being in force, or otherwise, for the removal of nuisances or the improvement of the sanitary condition of their parish or district; and to every such report there shall be appended a copy of every report made to such vestry or board during the preceding year by the officer or officers of health for their parish or district; and every such vestry and board shall in the said month of June send a copy of every such account in abstract, statement, and report, together with a printed list of the names and addresses of the members of such vestry and board, and of their officers, to the metropolitan board of works; and every vestry and district board shall permit inspection at their office of a copy of any such account in abstract, statement, and report by any ratepayer in their parish or district, without payment, at all reasonable times, and shall also permit the like inspection by the public generally of such list of officers; and copies of such account in abstract, statement, and report, and list of officers, shall be delivered to any person applying for the same, on payment of such reasonable sums, not exceeding twopence for each such copy, as may be fixed by such vestry or board in this behalf.

Vestry to make out and publish yearly a list of estates, charities, and bequests, &c. with the application thereof.

CXCIX. Every such vestry as aforesaid shall cause to be made out once at least in every year a list of the several freehold, copyhold, and leasehold estates, and of all charitable foundations and bequests, if any, belonging to the parish, and under the control of the vestry, the list to contain a true and detailed account of the place where such estate or charitable foundation may be situate, or in what mode and security such bequest may be invested, specifying also the yearly rental of each, and the particular appropriation thereof, together with the names of the persons partaking of their benefit (except where such benefit shall be allotted to the poor of the parish generally), and to what amount in each case, and also stating the name and description of the persons in whom such estates are vested, and the names and description of the trustees for each charity; and such lists shall be open for the inspection of the ratepayers at the office of the vestry clerk at the same time with the accounts when audited according to the provisions of this act.

Annual report of metropolitan board of works.

CC. The metropolitan board of works shall, in the month of June in every year, make a report of their proceedings in the execution of this act, and shall in the said month send a copy thereof, together with a copy of the said account in abstract and summary statement for the preceding year relating to such board, to one of her Majesty's principal secretaries of state, to the commissioners of her Majesty's works and public buildings, to the general board of health, to the lord mayor of the city of London, and to each of the vestries and district boards in the other parts of the metropolis.

Reports, &c., of metropolitan board to be laid before parliament.

CCI. Every such report, account in abstract, and statement to be sent to one of her Majesty's principal secretaries of state as aforesaid shall be laid before both houses of parliament within one month after the receipt thereof if parliament be sitting, or if parliament be not sitting, then within one month after the next meeting of parliament.

*Byelaws.*

Power to metropoli-

CCII. The metropolitan board of works and every district board and vestry respectively may from time to time make, alter, and repeal byelaws for all or any of the purposes following; (that is to say,) for regulating the business and proceedings at their meetings and of committees appointed by

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them, the appointment and removal of their officers and servants, and the duties, conduct, and remuneration of such officers and servants; and the said metropolitan board may also from time to time make, alter, and repeal byelaws for regulating the plans, level, width, surface inclination, and the material of the pavement and roadway of new streets and roads, and the plans and level of sites for building, and for regulating the dimensions, form, and mode of construction, and the keeping, cleansing, and repairing, of the pipes, drains, and other means of communicating with sewers, and the traps and apparatus connected therewith; for the emptying, cleansing, closing, and filling up of cesspools and privies; and for other works of cleansing, and of removing and disposing of refuse, and for regulating the form of appeal and mode of proceeding thereon; and generally for carrying into effect the purposes of this act; and every such board and vestry may thereby impose such reasonable penalties as they think fit, not exceeding forty shillings, for each breach of such byelaws, and in case of a continuing offence a further penalty not exceeding twenty shillings for each day after notice of the offence from the board or vestry: provided always, that under every such byelaw it shall be lawful for the justices before whom any penalty imposed thereby is sought to be recovered to order the whole or part only of such penalty to be paid, or to remit the whole penalty: provided also, that no byelaws shall be repugnant to the laws of England or to the provisions of this act; and that no byelaw shall be of any force or effect unless and until the same be submitted to and confirmed at a subsequent meeting of the board or vestry: provided also, that no penalty shall be imposed by any such byelaw unless the same be approved by one of her Majesty's principal secretaries of state.

*Metropolitan board to make byelaws.*

*Penalty for breach of byelaws.*

*Power to justices to remit penalties.*

*Publication of byelaws.*

CIII. All byelaws made and confirmed as aforesaid in pursuance of this act shall be printed, and hung up in the principal office of the board or vestry, and be open to public inspection without payment, and copies thereof shall be delivered to any person applying for the same, on payment of such sum, not exceeding twopence, as the board or vestry shall direct; and such byelaws, when so published, shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same; and the production of a printed copy of such byelaws, authenticated by the seal of the board or vestry, shall be evidence of the existence, and of the due making, confirmation, and publication of such byelaws, in all prosecutions under the same, without adducing proof of such seal or of the fact of such confirmation or publication of such byelaws.

*Evidence of byelaws.*

*Provisions for protection of property of metropolitan and district boards and vestries, and preventing obstruction in execution of works.*

CIV. No building shall be erected in, over, or under any sewer vested in the metropolitan board of works, or in any vestry or district board without their consent first obtained in writing (*a*), and if any building be erected contrary to this provision the board or vestry in whom such sewer is vested may demolish the same, and the expenses incurred thereby shall be paid by the person erecting such building.

Buildings not to be made over sewers without consent.

*Penalty on persons sweeping dirt into sewers.*

CCV. No scavenger or other person shall sweep, rake, or place any soil, rubbish, or filth, or any other thing, into or in any sewer or drain, or over any grate communicating with any sewer or drain, or into any dock or inlet communicating with the mouth of any sewer or drain, or into which any sewer or drain may discharge its contents, or into the river Thames contiguous thereto; and every scavenger or other person who shall so offend shall for every such offence forfeit and pay any sum not exceeding five pounds.

(*a*) See *Poplar Board* v. *Knight*, E. B. & E. 408; 28 L. J. M. C. 37.

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Penalty for wilfully damaging, &c., lamps or other property of vestries or district boards, or of the metropolitan board.

CCVI. If any person wilfully take away, break, throw down, or damage any lamp set up for lighting any of the streets in any parish mentioned in either of the schedules (A.) and (B) to this act, or wilfully extinguish the light within the same, or damage the iron or other furniture thereof, or wilfully damage any other property vested in any vestry or district board, or any property vested in the said metropolitan board, it shall be lawful for any person who sees such offence committed to seize, as also for any other person to assist in seizing, the offender, and by authority of this act, and without any other warrant, to convey him, or to deliver him into the custody of a police officer in order to be secured and conveyed, before some justice; and if the party accused be convicted of such offence he shall forfeit the sum of forty shillings, and shall also pay to such vestry or board the amount of damage done.

Persons carelessly or accidentally damaging lamps, &c., to make satisfaction.

CCVII. In case any person carelessly or accidentally break, throw down, or damage any such lamp, or the iron or other furniture thereof, or other such property as aforesaid, he shall pay the amount of damage done.

Penalty on interrupting workmen, &c., in execution of duties.

CCVIII. If any person at any time obstruct, hinder, or molest any surveyor, inspector, collector, or other officer, workman, or person whomsoever, employed by virtue of this act, in the performance or execution of his duty, every such person so offending shall for the first offence forfeit and pay the sum of five shillings, for the second offence the sum of twenty shillings, and for any subsequent offence the sum of five pounds.

Penalty upon occupiers obstructing execution of works, or not disclosing owner's name.

CCIX. If the occupier of any premises prevent the owner thereof from carrying into effect, with respect to such premises, any of the provisions of this act, or any order of any vestry or district board made in pursuance thereof, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such refusal or neglect: and if the occupier of any premises, when requested by or on behalf of the vestry or district board to state the name and description of the owner of the premises occupied by him, refuse or wilfully omit to disclose or wilfully mis state the same, it shall be lawful for any justice to summon the party to appear before him or some other justice at a time and place to be appointed in such summons; and if the party so summoned neglect or refuse to attend at the time and place so appointed, or if he do not show good cause for such refusal, or if such wilful omission or mis-statement be proved, the justice before whom the party is so summoned may impose upon the offender a penalty not exceeding five pounds.

Savings and provisions in local acts applicable to commissioners of sewers to apply to metropolitan and district boards and vestries.

CCX. All savings and provisions in turnpike, railway, waterworks, improvement, and other acts, saving and providing for the rights, powers, and authorities of the commissioners of sewers for any of the parts which shall be within the metropolis as defined by this act, shall, so far as the same are not inconsistent with the provisions of this act, continue and be in force in favour of and with reference to the metropolitan board of works and the several district boards of works and vestries having the management of sewers under this act, and in favour of the commissioners of sewers of the city of London, so far as such savings and provisions respectively are now applicable to them, or to any officer or person so continued by the said board.

*Appeals.*

Power to appeal against orders and acts of vestries and district boards in relation to con-

CCXI. Any person who deems himself aggrieved by any order of any vestry or district board in relation to the level of any building, or any order or act of any vestry or district board in relation to the construction, repair, alteration, stopping or filling up, or demolition of any building, sewer, drain, watercloset, privy, ashpit, or cesspool, may, within seven days after notice of any such order to the occupier of the premises affected thereby, or after such act, appeal to the metropolitan board of works against the same; and all such appeals shall stand referred to the committee appointed by such board for hearing appeals as herein provided; and such committee shall hear and determine all such appeals, and may

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struction of works.

order any costs of such appeals to be paid to or by the vestry or district board by or to the party appealing, and may, where they see fit, award any compensation in respect of any act done by any such vestry or district board in relation to the matters aforesaid; provided that no such compensation shall be awarded in respect of any such act which may have been done under any of the provisions of this act on any default to comply with any such order as aforesaid, unless the appeal be lodged within seven days after notice of such order has been given to the occupier of the premises to which the same relates (*a*).

Metropolitan board to appoint a committee for hearing appeals.

CCXII. The metropolitan board of works shall appoint a committee for the purpose of hearing all such appeals (*a*) as may be made to the said board as aforesaid, which committee shall have power to hear and decide all such appeals (*b*), and the metropolitan board of works shall from time to time fill up any vacancy in such committee, and the chairman of the said board shall, by virtue of his office of chairman, be a member of the said committee in addition to the members appointed by the said board, and shall preside at all meetings of such committee at which he is present; and in case of a vacancy in the office of such chairman, or in his absence, some other member of the committee shall be chosen to preside, and all the powers of such committee may be exercised by any three of them, and any member of such committee may at any time resign his office.

*Retiring allowances to officers of commissioners of sewers, and compensations to other officers.*

Power to grant retiring allowances to persons employed under metropolitan commissioners of sewers.

CCXIII. The metropolitan board of works may, if they deem it just, order the payment of retiring pensions or allowances, of such amounts and upon such terms as they deem just, to any officers or persons who have been employed under the metropolitan commissioners of sewers, and who shall not continue to be employed by the metropolitan board of works, or to any officer or person continued by the said board, having regard, in the case of persons who have been employed under any of the commissions determined by the issuing of the first commission under the said act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, to their employment under any of such commissions, as well as under the said metropolitan commissioners of sewers, and to pay such pensions or allowances out of such monies raised by the said metropolitan board under this act as to them may seem meet.

Compensation to officers of paving boards.

CCXIV. Every officer to any commissioners, vestry, or other body whose powers in relation to paving, lighting, watering, cleansing, or improving, or otherwise in relation to the regulation, government, or public concerns of any of the parishes mentioned in either of the schedules (A.) and (B.) to this act, or any part of any of such parishes, are determined by this act, and any paid surveyor of highways of any of such parishes, shall be entitled within six months after the commencement of this act to make a claim for compensation in respect of any loss of emoluments arising from the passing of this act, such claim to be made to the vestry of the parish in case the office of the claimant existed in any parish mentioned in the said schedule (A.), and in other cases to the district board of the district in which the office existed; and it shall be lawful for such vestry or board respectively to inquire, in such manner as they think fit, what were the nature and tenure of the office and the period for which the same has been holden by the claimant, and what were the lawful emoluments in respect of which compensation should be awarded; and the vestry or district board shall award a gross or yearly sum, and, in the case of a yearly sum, for such time as they think just, upon consideration of the special circumstances of each case; but no such award shall be final until confirmed by the metropolitan board of works; and one month before any such award

(*a*) See 25 & 26 Vict. c. 102, s. 20, *post*.

(*b*) Their decisions will be reviewed by the court. *Tinkler* v. *Wandsworth Board*, 27 L. J. Ch. 342.

18 & 19 Vict. c. 120.

is taken into consideration by such board notice of such award shall be given to the party in whose favour the same is made, and such board shall take into consideration any representations which may in the meantime be made to them by the party in whose favour the award is made, and by the vestry or district board making the same, and such further information or representations in relation to the matter of any such award as the said metropolitan board may see fit to require or receive; and such board may confirm such award, with or without any alteration therein, as to them may seem just; and any person making any such claim to compensation whose claim is rejected by any vestry or district board may, within one month after notice to him of the rejection thereof, appeal against the determination of such vestry or district board to the metropolitan board of works, and such board shall consider all the circumstances of the case, and may, if it appear to them just, award compensation to the claimant in like manner as the vestry or district board are herein empowered to do; and the determination or award of the said metropolitan board in reference to such claim shall be final (*a*); and all compensation awarded as aforesaid shall be paid out of the general rates to be levied under this act in the parish or particular part of any parish to which the office in respect whereof the compensation is awarded related, so as to charge such parish or particular part therewith in exoneration of other parishes and parts: provided always, that if any person to whom a yearly sum is awarded by way of compensation as aforesaid be appointed to any office or employment under the vestry of any of the said parishes, or under any district board, or the metropolitan board of works, or in the public service, the payment of the compensation so awarded shall be suspended so long as he continues to hold such office or employment if the emoluments thereof be equal to or greater than the amount of the emoluments of the office formerly held by him, and in case the emoluments of the office or employment to which he is appointed be not equal in amount to those of his former office, then no more of such compensation shall be paid to him than will, with the salary of his new appointment, be equal to the emoluments of his former office.

*Miscellaneous clauses.*

Where two or more persons are to do any act or pay any sum of money, vestry or district board may apportion the same.

CCXV. Where, under the authority of this act, two or more persons are or may be directed by any vestry or district board to do or join in doing any act, or to pay or join in paying any sum of money, costs, or expenses, or where any vestry or district board are authorised or think proper to permit two or more persons to join together in doing any act, or paying any sum of money, costs, or expenses, it shall be lawful for the vestry or district board to apportion the matter to be done, or the sum of money, costs, or expenses to be paid, between such persons, in such manner as the vestry or board consider just and reasonable.

Power to vestries and district boards to spread repayment of expenses over a period not exceeding 20 years.

CCXVI. In all cases where any vestry or district board is authorised to order any costs, charges, or expenses to be paid by private parties it shall be lawful for such vestry or district board to order and accept payment of such costs, charges, expenses, together with interest thereon after a rate not exceeding five pounds for the hundred by the year, by instalments, within such period, not exceeding twenty years in each case, as they may determine, the amount thereof to be recoverable in the same manner as other expenses are to be recovered under this act.

*Occupiers to pay expenses for which owners are liable, and to be reimbursed out of the rent.*

CCXVII. *It shall be lawful for any vestry or district board to require the payment of any costs or expenses which the owner of any premises may be liable to pay under this act from any person who then or at any time thereafter occupies such premises; and the owner shall allow every such occupier to deduct all sums of money which he so pays, or which are*

(*a*) See *R.* v. *Metropolitan Board*, 27 L. J. Q. B. 5; *R.* v. *St. Olave's*, 8 E. & B. 529.

18 & 19 Vict. c. 120.

*levied by distress, out of the rent from time to time becoming due in respect of the said premises, as if the same had been actually paid to such owner as part of such rent* (a).

*Occupier not required to pay more than the amount of rent owing by him.*

CCXVIII. *Provided always, that no such occupier shall be required to pay any further sum than the amount of rent for the time being due from him, or which, after such demand of such costs or expenses from such occupier, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such occupier, unless he refuse, on application being made to him for that purpose by or on behalf of the vestry or district board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier* (a).

*Agreements between landlord and tenant not to be affected.*

CCXIX. *Provided also, that nothing herein contained shall be taken to affect any contract made or to be made between any owner and occupier of any house, building, or other property whereof it is or may be agreed that the occupier shall pay and discharge all rates, dues, and sums of money payable in respect of such house, building, or other property, or to affect any contract whatsoever between landlord and tenant* (a).

As to service of notices, &c., on metropolitan and district boards and vestries.

CCXX. Any summons or notice, or any writ or other process at law or in equity, or any other matter or thing whatsoever, required to be served upon the metropolitan board of works or any district board or vestry, may, unless herein otherwise provided, lawfully be served by delivering the same personally to the clerk of such respective board or vestry, or by leaving the same at the principal office of such board or vestry.

As to service of notices on owners and occupiers and other persons.

CCXXI. All notices by this act required to be given to the owner or occupier of any land or premises, or other person, may be served personally on such owner, occupier, or person, or left with some inmate of his place of abode, and any notice required to be given to any such owner or occupier may, if there be no occupier, be affixed to some conspicuous part of the land or premises, and it shall not be necessary in any notice to any owner or occupier of any land or premises to name such owner or occupier: provided always, that where there is no occupier, and the owner of any such land or premises, and his place of abode, or that of his agent, is known to the vestry or board by or on behalf of whom such notice is given, or any of their officers, such notice shall be served on such owner personally, or left with some inmate of his place of abode, or transmitted to such owner through the post office, addressed to him at his place of abode, or last known place of abode in the united kingdom, or served on his agent as aforesaid.

Authentication of documents.

CCXXII. Every notice, demand, or like document given by or on behalf of the metropolitan board of works, or any vestry or district board, under this act, may be in writing or print, or partly in writing and partly in print, and shall be sufficiently authenticated if signed by their clerk, or by the officer by whom the same is given.

Proof of debts in bankruptcy.

CCXXIII If any person against whom the metropolitan board of works, or any district board or vestry, have any claim or demand, become bankrupt, or take the benefit of any act for the relief of insolvent debtors, it shall be lawful for the clerk or collector, in all proceedings under the bankruptcy or insolvency, to represent such board or vestry, and act in their behalf in all respects as if such claim or demand were the claim or demand of the clerk or collector, and not of such board or vestry.

Tender of amends.

CCXXIV. If any party have committed any irregularity, trespass, or other wrongful proceeding in the execution of this act or any act incorporated therewith, or by virtue of any power or authority given by this act or such other act as aforesaid, and if before action brought in respect

(a) See 25 & 26 Vict. c. 102, s. 96, *post.*

hereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action. 18 & 19 Vict. c. 120.

CCXXV. In every case where the amount of any damage, costs, or expenses is by this act directed to be ascertained or recovered in a summary manner, or the amount of any damage, costs, or expenses is by this act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount shall, in case of dispute, be ascertained and determined by and shall be recovered before two justices; and the amount of any compensation to be made under this act by the said metropolitan board, or any vestry or district board, shall, unless herein otherwise provided, be settled, in case of dispute, by and shall be recovered before two justices, unless the amount of compensation claimed exceed fifty pounds, in which case the amount thereof shall be settled by arbitration, according to the provisions contained in the Lands Clauses Consolidation Act, 1845, which are applicable where questions of disputed compensation are authorised or required to be settled by arbitration. Compensation, damage, and expenses how to be ascertained and recovered.

CCXXVI. Where the amount of any compensation, or of any damage, costs, or expenses, is to be determined by or to be recovered before two justices, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before two justices, at a time and place to be named in such summons; and upon the appearance of such parties, or, in the absence of either of them, upon proof of due service of the summons, it shall be lawful for such two justices to hear and determine the matter, and for that purpose to examine such parties or any of them, and their witnesses, on oath, and make such order, as well as to costs as otherwise, as to them may seem just. Method of proceeding before justices in questions of damages, &c.

CCXXVII. Every penalty or forfeiture imposed by this act, or by any bylaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before any justice in a manner provided by the act of the session holden in the eleventh and twelfth years of her Majesty, chapter forty-three (*a*), "to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders" (*b*). Penalties, &c., to be recovered as provided by 11 & 12 Vict. c. 43.

CCXXVIII. If, through any act, neglect, or default on account whereof any person has incurred any penalty imposed by this act, any damage to the property of the said metropolitan board, or any vestry or district board, has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damage, in case of dispute, shall be determined by the justices by whom the party incurring such penalty is convicted, and the payment of the amount of such damage may be enforced in all respects as such penalty. Damages to be made good in addition to penalty.

CCXXIX. It shall be lawful for any officer or servant of the said metropolitan board, or any vestry or district board, and for any police constable, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this act, or any bylaw made in pursuance thereof, and whose name and residence shall be unknown to such officer or servant or police constable, and convey him with all convenient despatch before some justice, without any warrant or other authority than this act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender Transient offenders.

CCXXX. No act, order, or proceeding in pursuance of this act, or in relation to the execution thereof, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts, except as herein specially provided. Proceedings not to be quashed for want of form.

CCXXXI. If any person feel aggrieved by any adjudication or determination of any justice or justices with respect to any penalty or forfeiture Parties allowed to appeal to

(*a*) See note, p. 55. (*b*) See 25 & 26 Vict. c. 102, s. 104, post.

18 & 19 Vict. c. 120.

under the provisions of this act, such party may appeal to the general or quarter sessions; but no such appeal shall be entertained unless it be made within four months next after the making such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal is brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sureties, before two justices, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

quarter sessions, on giving security.

Court to make such order as they think reasonable.

CCXXXII. At the general or quarter sessions for which such notice is given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid to the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable, and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

*Penalties to be sued for within six months.*

CCXXXIII. *No person shall be liable to the payment of any penalty or forfeiture under this act, or any byelaw made by virtue thereof, for any offence made cognizable before a justice, unless the complaint respecting such offence have been made before such justice within three months next after the commission or discovery of such offence* (a).

*Application of penalties.*

CCXXXIV. *If the application of any penalty or forfeiture be not otherwise provided for, one half thereof shall go to the informer, and the remainder shall go to the vestry or district board of the parish or district in which the offence was committed, or if such vestry or board be the informer, the whole of the penalty recovered shall go to them; and all sums which shall go to or be recovered by any such vestry or board on account of any such penalty or forfeiture shall be paid to their treasurer, or otherwise into such bank, to their account, as they may direct, and shall be applicable to the general expenses of the vestry or board: provided that in every case where any vestry or board are liable to any penalty or forfeiture the whole of such penalty or forfeiture shall go to the informer* (b).

*Special provisions and savings.*

CCXXXV. Where the vestries of any parishes mentioned in either of the schedules (A.) and (B.) to this act now act jointly or in union, or exercise any powers or privileges jointly or in union, or elect guardians, directors, trustees, or other persons whomsoever whose offices are not expressed to be determined by this act for any joint purposes, the vestries of such parishes elected under this act may act jointly or in union, and shall have the like powers and privileges jointly or in union, and elect for such joint purposes in like manner and with the like effect; and where in any of the said parishes any guardians, directors, trustees, or other persons whomsoever whose offices are not expressed to be determined by this act are now by law elected out of the vestry of any such parish, such guardians, directors, trustees, or other persons as aforesaid may be elected out of or from the vestrymen and persons who under this act are eligible as vestrymen for the same parish; and the office of no such guardian, director, trustee, or other person shall be determined by reason of his ceasing to be a vestryman in consequence of the passing of this act; but every such guardian, director, trustee, or other person shall continue in office until such time as he would otherwise have ceased to hold his office.

Provision for joint action of vestries, and elections out of vestries under local acts.

Agreement between the London and North-Western Railway Company

CCXXXVI. And whereas by an agreement, made on the tenth day of August one thousand eight hundred and fifty-four, between the London and North-Western Railway Company of the one part, and five of the commissioners acting under certain acts of parliament relating to the paving and improving of certain streets in the parish of Saint Pancras in the

(a) See 25 & 26 Vict. c. 102, s. 107, *post*. (b) See *ibid.*, s. 105, *post*.

county of Middlesex of the other part, it was agreed that the commissioners acting under the said acts should, in consideration of the payment of the sums of three thousand pounds and five hundred pounds to the said commissioners by the said company, put into good and complete state of repair and condition certain roads therein particularly mentioned, and (except in the event therein mentioned of an act not being obtained during the then next session to authorise the transfer to the said commissioners of the management of the said roads) would maintain the said roads at their own charge and expense: and whereas the said sums have been paid to the said commissioners, and it is expedient that the said agreement should be confirmed, as hereinafter mentioned:

and certain paving commissioners confirmed.

The said agreement shall be confirmed so far as the same relates to the repair and maintenance of the said roads; and the maintenance thereof shall be vested in the vestry of the said parish of Saint Pancras in like manner as if the said commissioners had been by act of parliament liable to maintain and repair the said roads at the time of the commencement of this act; and the sums paid to the said commissioners as aforesaid, or such part thereof as may not have been already applied for the purpose of putting the said roads into good and complete repair, shall be paid over to the vestry of the parish of Saint Pancras, and be applied for the general benefit of such parish in aid of any rates to be raised in such parish to defray expenses of paving, anything in this act or in any act relating to the said company to the contrary notwithstanding.

Special provision as to powers of commissioners acting under 5 & 6 Vict. c. 48, as to paving Ely Place, &c.

CCXXXVII. This act shall not divest the commissioners under an act of the session holden in the fifth and sixth years of her Majesty, chapter forty-eight (local), "For paving, lighting, watching, cleansing, and improving Ely Place and Ely Mews, Holborn, in the county of Middlesex," of any of the powers or property vested in them under that act, nor shall any of the provisions of this act in relation to the paving, lighting, watering, and cleansing of streets apply to the parts within the limits of the said local act, nor shall such parts be assessed or rated under this act for defraying any expenses incurred by the district board for the Holborn district in relation to paving, lighting, watering, and cleansing; but such parts shall be subject to all the provisions of this act relating to sewerage and house drainage, and to be assessed or rated for sewerage expenses incurred by the said district board, and for expenses incurred by the metropolitan board of works, and towards any sums required to be raised by such board under this act, in like manner as other parts within the said district.

Special provision as to parish of Woolwich.

CCXXXVIII. Notwithstanding anything in this act contained to the contrary, the provisions of this act shall extend and apply to the parish of Woolwich only to the extent and in manner hereinafter mentioned; (that is to say,)

A member of the metropolitan board of works shall be from time to time elected by the local board of health of Woolwich, at a meeting of such board, as by this act directed with respect to the vestry of each of the parishes mentioned in the said schedule (A.):

The said metropolitan board shall have and perform, within and in relation to the said parish, all the powers and duties vested in them under this act, in like manner as within and in relation to other parishes mentioned in the said schedule (A.), save that the said local board shall be subject to all orders of the said metropolitan board in relation to sewerage and otherwise, and to all precepts requiring payment of money, in all respects as the vestries of other parishes in the said schedule (A.) are subject to the same, in lieu of the vestry of the said parish; and all sums required to be paid by such precepts shall be defrayed out of any monies carried to the district fund account, or by means of a general district rate to be levied on the whole of the parish of Woolwich, or such part thereof as may be specified in the precept of the said metropolitan board.

Special pro-

CCXXXIX. Where any enclosed garden or ornamental ground is vested

18 & 19 Vict. c. 120.

Provisions as to enclosed gardens in squares, &c.

in or under the maintenance or management of any commissioners or other body, for the use of the inhabitants of any square, crescent, circus, street, or place, surrounding or adjoining such garden or ground, and the powers of such commissioners or other body do not extend beyond such garden or ground, and such square, crescent, circus, street, or place, or any adjoining street, way, or passage, so far as the same may abut upon any part of any house, shop, building, or tenement situate in or fronting any such square, crescent, circus, street, or place, nothing in this act shall divest such commissioners or body of any property in such garden or ground, or in any railing or footway bounding the same, or of any duties, powers, or authorities now or hereafter vested in any such commissioners or other body, for or in relation to the paving, watering, cleansing, improving, or regulating of such enclosed garden or ornamental ground, or in relation to the railing or footway bounding the same, or to levy rates for defraying any expenses incurred in the execution of such duties or powers; and where the maintenance or management of any enclosed garden or ornamental ground is vested in any commissioners or other body, for the use or benefit of the inhabitants of any square, crescent, circus, street, or place surrounding or adjoining the same, who are liable to be assessed for the maintenance thereof, and the powers of such commissioners or other body extend beyond such enclosed garden or ornamental ground, and such square, crescent, circus, street, or place, or such adjoining street, way, or passage as aforesaid, the maintenance and management of such enclosed garden or ornamental ground shall be vested in a committee, consisting of not more than nine nor fewer than three of such inhabitants, and such committee shall be appointed annually in the first week in June by such inhabitants; and the vestry or board shall from time to time cause to be raised the sums required by such committee for defraying the expenses of the maintenance and management of such enclosed garden or ornamental ground, or of such part thereof as is situate within their parish or district, by an addition to the general rate to be assessed on the occupiers of the houses or buildings the occupiers whereof are now liable to be assessed for the same purpose: provided always, that where any such rate which may now be levied for such purpose is limited in amount, the rate to be levied under this provision shall be subject to the like limit.

Saving of powers and property of commissioners under 14 & 15 Vict. c. 95.

CCXL. This act shall not divest the commissioners for carrying into execution "The Crown Estate Paving Act, 1851," and the subsisting provisions of the acts therein recited, or the commissioners of her Majesty's works and public buildings, of any of the powers, duties, authorities, or property vested in them respectively under the said acts; and nothing in this act shall extend to authorise or empower any vestry or district board to exercise any power or control whatsoever in respect of paving, maintaining, lighting, watering, cleansing, and regulating any streets or places in the neighbourhood of the houses of parliament, delineated on a plan marked E, referred to by "The Crown Estate Paving Act, 1851," or any portion of the district now under the management of the commissioners for carrying into execution the said Crown Estate Paving Act, and the subsisting provisions aforesaid, or to exercise any power or control whatsoever in or over any of the gardens or pleasure grounds the management whereof is now or may for the time being be vested in such last-mentioned commissioners; nor shall any such street or place, or any portion of such district, as aforesaid, be assessed or rated under this act for defraying any expenses incurred by any vestry or district board in relation to paving, lighting, watering, or cleansing, but such streets, places, and district shall be subject to all the provisions of this act relating to sewerage and house drainage, and to be assessed or rated for sewerage expenses incurred by any such vestry or board, and for expenses incurred by the metropolitan board of works, and towards any sums required to be raised by such board under this act as by this act provided.

18 & 19 Vict. c. 120.

CCXLI. Nothing in this act shall divest the commissioners for the time being of her Majesty's works and public buildings of any power or property now or which for the time being may be vested in them; and nothing in this act shall extend to authorise or empower any vestry or district board to exercise any power or control whatsoever in or over any of the royal or public parks, gardens, or pleasure grounds, the management whereof is now or may be for the time being vested in such commissioners; and nothing in this act shall abridge, alter, or affect any right, power, exemption, or remedy of the Queen's most excellent Majesty, her heirs or successors, or the said commissioners, in, over, or in relation to the possessions of the crown or of the public.

Saving of the rights of the commissioners of works.

Saving of powers of city commissioners of sewers over certain parts of parishes in schedule (B.).

CCXLII. Nothing in this act shall divest the commissioners of sewers of the city of London of any powers or property vested in them in relation to such parts of any of the parishes mentioned in schedule (B.) to this act as are within the city of London, nor shall such parts be subject to be rated or assessed by any district board, but shall be subject to all the powers of the metropolitan board of works as other places in the city of London.

Saving rights of Metropolitan Sewage Manure Company, acting under 9 & 10 Vict. c. cccxcviii., and 10 & 11 Vict. c. cxxxviii.

CCXLIII. Nothing in this act shall extend to or affect any of the rights, privileges, powers, or authorities vested in the Metropolitan Sewage Manure Company by an act of the session holden in the ninth and tenth years of her Majesty, intituled "An Act to incorporate a Company by the Name of the Metropolitan Sewage Manure Company," or an act of the session then next following, intituled "An Act for enabling the Metropolitan Sewage Manure Company to alter the Line of their Works, and for other Purposes:" provided always, that all rights, powers, and authorities by either of the said acts vested in the commissioners of sewers for the time being for the city and liberty of Westminster and part of the county of Middlesex, shall be vested in the metropolitan board of works, and the provisions of the said acts shall be construed as applying to such board in lieu of such commissioners, but any order or act which might have been made or done by the said commissioners at a court of sewers may be made or done by the said metropolitan board at any meeting of such board.

Saving rights of commissioners or trustees of turnpike roads.

CCXLIV. Nothing in this act shall divest the commissioners or trustees of any turnpike road of any powers or property vested in them as such commissioners or trustees, save as herein expressly provided with respect to turnpike roads, and save that the footpaths of any such road shall be under the care and management of the vestries and district boards of the parishes or districts in which the same are situate in like manner as other footpaths in such parishes and districts: provided always, that the provisions of this act transferring to vestries and district boards powers and property vested in any commissioner or other body in relation to the paving, lighting, watering, cleansing, and improving of their parishes and districts, and all other provisions of this act incident to or consequent upon such transfer, shall apply to all powers and property vested in the trustees of the Commercial Road, so far as regards any streets or highways other than such road, and also so far as regards the footpaths of such road.

Saving for metropolitan police commissioners.

CCXLV. Nothing in this act shall interfere with the powers given by law to the commissioners of the police of the metropolis.

Not to prejudice dispute between Battersea and Penge.

CCXLVI. Nothing in this act shall be construed to prejudice or affect any question as to whether the hamlet of Penge is or is not a part of the parish of Battersea.

Repeal of acts inconsistent with this act.

CCXLVII. All acts of parliament in force in any parish or place to which this act extends, or in any part of such parish or place, shall, so far as the same are inconsistent with the provisions of this act, be repealed as regards such parish or place, or such part thereof, notwithstanding any provisions of this act continuing and transferring respectively to vestries of parishes, and transferring to district boards any duties, powers, or authorities now vested in vestries, commissioners, or other bodies.

18 & 19 Vict. c. 120.

In case of conflict with the provisions of this act, provisions of local acts may be varied by order in council, on petition of boards or vestries.

CCXLVIII. Upon the petition of the metropolitan board of works, or of any district board or vestry, representing to her Majesty in council that by reason of the provisions of any local act of parliament relating to any district or parish, or any part thereof respectively, difficulties have arisen in the execution of this act and of such local act or either of them, and praying for a suspension or alteration of all or any of the provisions of such local act, or for the establishment of other provisions in lieu thereof under this enactment, it shall be lawful for her Majesty, by order in council, to suspend or alter all or any of the provisions of such local act, and to make other provisions in relation to the matters thereof as her Majesty, with the advice of her privy council, may think necessary under the circumstances of the case; and every such order in council shall be laid before both houses of parliament within one month after the making thereof, if parliament be then sitting, or, if parliament be not sitting, then within one month after the next meeting of parliament, and shall be published in the London Gazette: provided always, that no such order in council shall remain in force beyond the term of one year from the making thereof.

*Power to extend act to adjoining parishes.*

Act may be extended by order in council to parishes adjoining the metropolis not having less than 750 ratepayers.

CCXLIX. In case and when and so often as it is made to appear to her Majesty in council, upon the representation of the metropolitan board of works (*a*), that the provisions of this act should be extended to any parish adjoining the metropolis, and in which there are not less than seven hundred and fifty inhabitants rated to the relief of the poor, it shall be lawful for her Majesty, with the advice of her privy council, to order that the provisions of this act shall extend to such parish, from and after a day to be mentioned in this behalf in the order in council, and that such parish shall join with any parish or parishes or district in such order named in the election from time to time of the member or members of the metropolitan board of works by this act directed to be elected for such parish or parishes or district, and to make such provision as to the mode in which every such joint election shall take place, and otherwise in relation thereto, as to her Majesty in council may seem necessary and proper; and every such order shall be published in the London Gazette; and from and after the time mentioned in such order for the extension of the provisions of this act to any parish as aforesaid, the provisions of this act shall extend to and be in force therein, in like manner, so far as circumstances will admit, as such provisions apply to any parish mentioned in schedule (A.) of this act, subject, nevertheless, to the provisions in such order contained in relation to the election by such parish jointly as aforesaid of a member or members of the said metropolitan board: provided always, that notice of every such representation, and of the time when it shall please her Majesty to order that the same be taken into consideration by her privy council, shall be published in the London Gazette one month at least before such representation is so considered.

*Interpretation and commencement of act.*

Interpretation of terms: "the metropolis:" "the city of London:" "parish:" "overseers of the poor:" "rates:"

CCL. In the construction of this act "the metropolis" shall be deemed to include the city of London, and the parishes and places mentioned in the schedules (A.), (B.), and (C.) to this act; "the city of London" shall be deemed to include all parts now within the jurisdiction of the commissioners of sewers for the city of London; and the word "parish" shall include any place mentioned in schedule (A.) to this act, and any place or combination of places mentioned in schedule (B.) to this act, for which one or more member or members is or are to be elected to any district board; the expression "the overseers of the poor" shall include any persons authorized to make and collect or cause to be collected the rate for the relief of the poor in any parish; any expression referring to any rate or rates raised under this act by the metropolitan board of works, or any vestry or district board shall mean the sums and rates authorized to be raised by the said metropolitan board and the sums authorized to be raised

(*a*) See 25 & 26 Vict. c. 102, s. 42, *post*.

ny vestry and district board respectively; the word "owner" shall, pt for the purpose of the provision of this act requiring notice to be ed on owners or reputed owners of land, before application to one of Majesty's principal secretaries of state for his consent to exercise ers of taking land, or any right or easement in or over land, com- orily, mean the person for the time being receiving the rackrent of the s or premises in connexion with which the said word is used, whether is own account or as agent or trustee for any other person, or who ld so receive the same if such lands or premises were let at a rackrent; word "street" shall apply to and include any highway (except the iageway of any turnpike road), and any road, bridge (not being a ity bridge), lane, footway, square, court, alley, passage, whether a oughfare or not, and a part of any such highway, road, bridge, lane, way, square, court, alley, or passage; the word "drain" shall mean include any drain of and used for the drainage of one building only, or nises within the same curtilage, and made merely for the purpose of municating with a cesspool or other like receptacle for drainage, or a sewer into which the drainage of two or more buildings or premises pied by different persons is conveyed, and shall also include any drain draining any group or block of houses by a combined operation under order of any vestry or district board; and the word "sewer" shall n and include sewers and drains of every description, except drains to ch the word "drain," interpreted as aforesaid, applies; and the word hpit" shall include "dustbin."

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"owner:"

"street:"

"drain:"

"sewer:"

"ashpit."

CLI. This act shall commence and come into operation, save as herein rwise provided, on the first day of January one thousand eight hundred fifty-six.

Commencement of act.

## SCHEDULE (A.).

### Part I.

*rishes each electing Two Members of the Metropolitan Board of Works.*

aint Marylebone.
aint Pancras.
ambeth.
laint George Hanover Square.
slington, Saint Mary.
horeditch, Saint Leonard.

### Part II.

*rishes each electing One Member of the Metropolitan Board of Works.*

addington.
laint Matthew Bethnal Green.
laint Mary Newington, Surrey.
amberwell.
laint James Westminster.
laint James and Saint John Clerkenwell, to be considered as one parish.
helsea.
ensington, Saint Mary Abbot.
laint Luke Middlesex.
laint George the Martyr Southwark.
ermondsey.
laint George in the East.
laint Martin in the Fields.
Iamlet of Mile End, Old Town.
oolwich.
otherhithe.
laint John Hampstead.

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## SCHEDULE (B.).

PARISHES UNITED INTO DISTRICTS FOR THE PURPOSES OF THE ACT.

### PART I.

*Districts each electing one Member of the Metropolitan Board of Works.*

| Name of District. | Parishes. | Number of Members to be elected to District Board |
|---|---|---|
| Whitechapel district | Saint Mary Whitechapel | 27 |
| | Christchurch Spitalfields | 12 |
| | Saint Botolph without Aldgate, in the county of Middlesex | 6 |
| | Holy Trinity, Minories | 1 |
| | Saint Katherine, Precinct of | 1 |
| | Mile End New Town, Hamlet of | 6 |
| | Liberty of Norton Folgate | 3 |
| | Old Artillery Ground | 1 |
| | Tower, District of | 1 |
| | TOTAL | 58 |
| Westminster district | Saint Margaret | 30 |
| | Saint John the Evangelist | 27 |
| | TOTAL | 57 |
| Greenwich district | Saint Paul Deptford, including Hatcham | 21 |
| | Saint Nicholas Deptford | 6 |
| | Greenwich | 30 |
| | TOTAL | 57 |
| Wandsworth district | Clapham | 18 |
| | Tooting Graveney | 3 |
| | Streatham | 9 |
| | Saint Mary Battersea, excluding Penge | 12 |
| | Wandsworth | 9 |
| | Putney, including Roehampton | 6 |
| | TOTAL | 57 |
| Hackney district | Hackney | 51 |
| | Saint Mary Stoke Newington | 6 |
| | TOTAL | 57 |

| me of District. | Parishes. | Number of Members to be elected to District Board. |
|---|---|---|
| Giles district | Saint Giles-in-the-Fields | 27 |
| | Saint George, Bloomsbury | 21 |
| | TOTAL | 48 |
| rn district | Saint Andrew Holborn above Bars | 24 |
| | Saint George the Martyr | 9 |
| | Saint Sepulchre, in the County of Middlesex | 6 |
| | Saffron Hill, Hatton Garden, Ely Rents, and Ely Place | 9 |
| | The Liberty of Glasshouse Yard | 1 |
| | TOTAL | 49 |
| l district | Saint Anne Soho | 18 |
| | Saint Paul Covent Garden | 9 |
| | Saint John the Baptist Savoy, or Precinct of the Savoy | 1 |
| | Saint Mary-le-Strand | 3 |
| | Saint Clement Danes | 15 |
| | Liberty of the Rolls | 3 |
| | TOTAL | 49 |
| n district | Saint Peter and Saint Paul Hammersmith | 24 |
| | Fulham | 15 |
| | TOTAL | 39 |
| ouse District | Saint Anne Limehouse | 15 |
| | Saint John Wapping | 3 |
| | Saint Paul Shadwell | 6 |
| | Ratcliffe, Hamlet of | 12 |
| | TOTAL | 36 |
| r district | All Saints Poplar | 24 |
| | Saint Mary Stratford-le-Bow | 9 |
| | Saint Leonard Bromley | 15 |
| | TOTAL | 48 |
| Saviour's district | Christchurch | 15 |
| | Saint Saviour (including the Liberty of the Clink) | 24 |
| | TOTAL | 39 |

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PART II.

*Districts united for electing One Member of the Metropolitan Board of Works.*

| Name of District. | Parishes. | Number of Members to be elected to District Board. |
|---|---|---|
| Plumstead district | Charlton next Woolwich | 9 |
| | Plumstead | 12 |
| | Eltham | 6 |
| | Lee | 9 |
| united with | Kidbrooke | 1 |
| | TOTAL | 37 |
| Lewisham district | Lewisham, including Sydenham Chapelry | 24 |
| | Hamlet of Penge | 3 |
| | TOTAL | 27 |

PART III.

*Parish and District united for electing One Member of the Metropolitan Board of Works.*

| | | |
|---|---|---|
| The parish of Rotherhithe | | |
| united with | | |
| Saint Olave District. | Saint Olave | 12 |
| | Saint Thomas Southwark | 1 |
| | Saint John Horsleydown | 15 |
| | TOTAL | 28 |

SCHEDULE (C.) (*a*)

The Close of the Collegiate Church of Saint Peter.
The Charter House.
Inner Temple.
Middle Temple.
Lincoln's Inn.
Gray's Inn.
Staple Inn.
Furnival's Inn.

(*a*) See 25 & 26 Vict. c. 102, s. 11, *post*.

## SCHEDULE (D.)

### Main Sewers of the Metropolis.

#### NORTH SIDE OF THE THAMES.

*Stamford Brook (West Branch).*

Commences at an angle in the boundary between the parishes of Hammersmith and Acton, on the south of the Uxbridge and London-road, and tangent to a footpath running south from East Acton-lane, extending thence in a south-easterly direction to Paddenswick-green, when it joins the east arm of the said brook.

*Stamford Brook (East Branch).*

Commences at a point on the boundary between the parishes of Hammersmith, Willesden, and Acton, about 100 feet north east of the old Oakbridge over the North-western railway, extending thence in a southerly direction to Paddenswick-green.

The united streams of the above two branches discharge into Hammersmith-creek.

*Brook Green Sewer.*

Commences in Wood-lane, at the keeper's lodge, on the south side of Wormwood-scrubs, and discharges into the river Thames by two outlets, viz., Bridge-road and Queen-street, on the east side of Hammersmith Suspension-bridge.

A branch from the above commences in New-road, at the north end of the Grove, and joins the main sewer at Broadway, Hammersmith.

*Fulham Sewer.*

Commences at a sluice in the moat surrounding the bishop of London's palace, on the west side of the junction of High-street, Fulham, with the Fulham-road, and discharges into the Thames under the toll-house of Fulham-bridge.

*Eel Brook Sewer.*

Commences at a point in North-end-road, about 80 feet north-west of Walham-green church, and discharges into Kensington canal on the south-east side of the Imperial Gas-works.

*Counters Creek Sewer (Main Line).*

Commences at a point in the Harrow-road, about 200 feet west of Kensal-green Cemetery-gate, and discharges into the Thames at the outlet now forming on the south-west side of Cremorne-gardens.

*Counters Creek Sewer (West Branch).*

Commences at a culvert under the Grand Junction canal, on the boundary between the parishes of Kensington and Hammersmith, at the south-west corner of Kensal-green Cemetery, and joins the above main line in Latimer-road at its junction with Bromley-road.

*Counters Creek Sewer (East Branch).*

Drains the whole of Kensal New-town, situate in a detached portion of the parish of St. Luke Chelsea, and part of the parish of St. Mary Paddington, and passes under the Great Western railway at a bridge leading to Portobello-lane, on the south-east side of the Western gas-works, and joins the main sewer at a point about a quarter of a mile north-west of Notting Barn farm.

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*Counters Creek Sewer (Kensington Branch).*

Commences in Victoria-grove at about 50 feet to the north of Uxbridge-road, and joins the main line at the junction of Pembroke and Warwick-roads.

*Sewer to the Metropolitan Sewage Manure Works.*

Commences at Knightsbridge at its junction with the Ranelagh sewer, and extends thence in a south-westerly direction to the works at Stanley-bridge.

*Millman's Row Sewer.*

Commences in Fulham-road, at about 780 feet west, and at about 230 feet east of the junction of Park-walk with Fulham-road, and discharges into the river Thames opposite to Millman's-row.

*Church Street Sewer.*

Commences in Gloucester-road at its junction with Canning-place, at about 750 feet south of Hogmore-lane-gate, and discharges into the Thames on the south side of Chelsea Old Church.

*Queen Street Sewer.*

Commences between Gloucester-road and Hyde-park-gate south, on the south of Kensington-road, and about 300 feet south of Kensington-gate runs through Old Brompton, and discharges into the river Thames on the east side of Chelsea free dock.

*Smith Street Sewer.*

Commences in the Kensington-road at a point about 750 feet west of Prince of Wales-gate, and extends thence by Rutland-gate, Rutland-street, and Fulham-road, on the west of Brompton-crescent, and along College and Markham-streets, and discharges into the Thames on the west side of Chelsea Royal Hospital.

*Ranelagh Sewer.*

The branch sewers from Edgeware-road, Finchley-road, and Kilburn-vale unite at Kilburn-bridge, and for the main line, which, running in a southerly direction, discharges into the river Thames on the south-east side of Chelsea Royal Hospital.

This sewer has several branches, the chief of which commences in Grove-end-road, at about 900 feet west of St. John's-wood-road, extending thence by Lisson-grove, New-road, Grand Junction-road, and Albion-street, to a tumbling bay, where it joins the main sewer in Uxbridge-road.

*King's Scholars Pond Sewer.*

Commences in the Finchley-road at about 1500 feet above Junction-road toll-gate, and discharges into the river Thames at the Equitable Gas-works, about 700 feet above Vauxhall-bridge.

*King's Scholars Pond Sewer (Pall Mall Branch).*

Commences at Waterloo-place, and joins the main line opposite the entrance of Buckingham-palace.

*Grosvenor Ditch.*

Commences in Page-street, at about 150 feet east of the junction with Regent-street, Vauxhall-bridge-road, and discharges into the river Thames at the northern extremity of Millbank-road.

*Horseferry Road Sewer.*

Commences in Grey Coat-place, and discharges into the river Thames at the Horseferry stairs.

*Wood Street Sewer.* 18 & 19 Vict. c. 120.

Commences in Grey Coat-place, and discharges into the river Thames in the prolongation of Wood-street.

*Victoria Street Sewer.*

Commences at Shaftesbury-terrace, Pimlico, and discharges into the Thames at Percy-wharf.

*Regent Street Sewer (Western Branch).*

Commences in the outer circle of the Regent's-park, at about 200 feet north-west of Hanover-gate entrance, and joins the eastern branch in the New-road, opposite to the prolongation of Portland-place.

*Regent Street Sewer (Eastern Branch).*

Commences in Upper Albany-street, at about 200 feet south of Collateral Cut-bridge over the Regent's Canal, and joins the western branch at the aforesaid point in the New-road.

The main sewer proceeds thence along Regent-street, and discharges into the river Thames at Percy-wharf.

*Northumberland Street Sewer (Western Branch).*

Commences in Warren-street, on the North of Fitzroy-square, and proceeds in a southerly direction along Cleveland, Newman, Wardour, Princes, and Panton streets, Haymarket, to Charing Cross, opposite the District Post-office.

*Northumberland Street Sewer (Eastern Branch).*

Commences in New-road, at about 170 feet west of the junction with Hampstead-road, and proceeds along Tottenham-court-road, High-street, Seven Dials, and St. Martin's-lane, to Charing Cross, when it joins the western branch.

The main line proceeds along Northumberland-street, and discharges into the Thames at Northumberland-wharf.

*Savoy Street Sewer.*

Commences in Stanhope-street, Regent's-park-basin, at a point at about 160 feet north of the junction with Edward-street, and proceeds along Robert, George, Gower, Charlotte, Bloomsbury, Endell, Bow, Wellington, and Savoy-streets, and discharges into the Thames at a point about 100 feet above Waterloo-bridge.

*Norfolk Street Sewer.*

Commences at the junction of Drury-lane and Long-acre, and passes by the Olympic Theatre, and along Newcastle-street and Strand, and discharges into the river Thames opposite Norfolk-street.

*Essex Street Sewer (Western Branch).*

Commences in Russell-square, opposite Montague-place, and proceeds along Montague, Russell, and Museum streets, Drury-lane, Great Wild-street, and Vere-street, to the junction of the eastern branch at the intersection of Sheffield and Gilbert streets, Clare-market.

*Essex Street Sewer (Eastern Branch).*

Commences at the corner of Tottenham-court-road, and proceeds along New Oxford-street, Newton-street, and Cross-lane, Parker and Great Queen-streets, west side of Lincoln's Inn-fields, to the junction with the western arm above described.

The main sewer proceeds thence along Gilbert-street, Clement's-lane,

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Pickett-street, and Essex-street, and discharges into the river Thames at Temple-pier.

*Fleet Sewer.*

Commences in High-street, Hampstead, at the junction of High-street with Flask-walk, extending thence through South End-green, Gordon House-lane, Victoria-road, Great College-street, Old St. Pancras-road, Bagnigge Wells-road, west of Middlesex House of Correction, and by Farringdon-street to Blackfriars-bridge, where it discharges into the river Thames.

This sewer has numerous tributaries running into other districts, the chief of which are Camden-road, Caledonian-road, Pentonville-hill, River-street, St. John's-road, Holborn-hill, and Guildford-street.

*Goswell Street Sewer.*

Commences in Sydney-street, at the junction of Sydney-grove, and discharges into the Thames at Walbrook.

*London Bridge Sewer (City Road Branch).*

Commences at Duncan-terrace, on the west side of the New River, and joins the main line at the north end of Finsbury-pavement.

Another branch commences in Lonsdale-square, Islington, and extending thence through Barnsbury-street, Richmond-grove, passes under the New River at New North-road-bridge, thence along Portland-place, King-street, under the Regent's-canal, by Sturt's-lock, Walbrook-street, and Critchill-place, where it joins another branch at St. John's church, Hoxton.

*London Bridge Sewer (Balls Pond Branch).*

Commences on the boundary between St. Mary Islington and St. John Hackney, at Cock and Castle-lane, Dalston, and passes by Balls Pond and Rosemary Branch-bridge to the junction at St. John's church, above described. The united sewers then discharge into the river Thames at London-bridge.

*London Bridge Sewer (Shoreditch Branch).*

Commences in Queen's-road, at the junction with Laurel-street, Dalston, and extending thence along Queen's-road, Great Cambridge-street, Hackney-road, Shoreditch, and Bishopsgate, joins the main line at King William's statue.

*Irongate Sewer.*

Commences in the City, and proceeds along the south-west side of Houndsditch, west side of Minories, and by the Precincts of Old Tower Without, and discharges into the river Thames at Irongate-stairs, on the east of the Tower.

*Nightingale Lane Sewer.*

Commences in Union-street, Old Artillery-ground, and Booth street, Spitalfields, and extends thence along Commercial, Leonard, Wells, and Parson streets, and Nightingale-lane, and discharges into the Thames on the western side of the entrance into Hermitage-basin.

*Hermitage Street Sewer.*

Commences in Redmead-lane, on the boundary between the parishes of St. John Wapping and St. George in the East, and extends thence along Great Hermitage-street, and discharges into the river Thames at about 50 feet east of Union-stairs.

*Old Gravel Lane Sewer.*

Commences at the boundary between the parishes of St. George in the

it and St. John Wapping, in Old Gravel-lane, and discharges into the er Thames at a point about 110 feet west of the Thames Tunnel.

*Wapping Wall Sewer.*

Commences in Green-bank, at the junction of Upper Well-alley, and ses through King-street, and discharges into the river Thames at about feet on the north-east side of New Crane-dock.

*Shadwell Basin Sewer.*

Commences on the north side of the Eastern Dock, at the termination of st Gardens, and extends thence between the warehouses and New Gravel-e, on the North side of Shadwell-basin, and along Shadwell Dock-street, discharges into the river Thames at the Eastern-pier of the Shadwell rance to the London-docks.

*Pennington Street Sewer.*

Commences at the boundary between the parishes of St. George in the t and St. John Wapping, in St. George-street, and extends thence ng Pennington-street, Old Gravel-lane, West Gardens, Cow-lane, Little ing-street,, Labour-in-Vain-street, and Lower Shadwell, and discharges the river Thames at Shadwell Dock-stairs.

*Ratcliffe Highway Sewer (Western Branch).*

Commences at the junction of Sherwood-place with Meed-street, at about feet south-east of Shoreditch church, and extends along Turvile, mas, and High-streets, and Whitechapel-road, to the junction of New-d with Whitechapel-road.

*Ratcliffe Highway Sewer (Eastern Branch).*

Commences at the junction of Hague-street with Bethnal-green-road, and ends along Hague-street, Wellington and Charles-streets, to the junction New-road with Whitechapel-road, above described.

*Ratcliffe Highway Sewer (North-eastern Branch).*

Commences from the rear of Shoreditch church, and proceeds along Old tle-street, Virginia-row, Wellington-row, Old Bethnal-green-road, Cam-lge-road, Cleveland-street, King-street, Jamaica-street, Havering-street, l Love-lane, to Ratcliffe-highway.

The main sewer proceeds along New-road, Cannon-street-road, St. rge's-street, High-street, Shadwell, and Broad-street, and discharges o the river Thames at Ratcliff Cross-stairs.

*Limekiln Dock Sewer.*

Commences at the junction of Victoria-road with Bishop's-road on south-western side of Bonner's-hall-bridge, leading into Victoria-park, l extends along Victoria-road, east side of Bethnal-green, Globe-road, ite Horse-lane, and Rhodeswell-road, and passes under the Regent's al at Rhodeswell-wharf, thence along the Black Ditch, Upper North-et, and North-street, and discharges into the river Thames at Limekiln-k.

*Great Sluice and Drunken Dock Sluice.*

These sluices are situated on the eastern side of the Isle of Dogs, and in the whole of that part of the Isle south of the West India Dock basin. y have four inlet sluices for purposes of flushing.

*Blackwall Sluice.*

Commences at Batson's Inlet, near Limehouse entrance to the West India

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Dock, and discharges into the Thames on the north side of the Blackwall entrance to the West India Dock.

*Eastern Counties Railway Sewer.*

Commences at Mile-end-bridge, over the Regent's Canal in Bow-road, proceeds along Bow-road, Tredegar-square, and by the railway, and discharges into the river Lea, where the viaduct of the said railway crosses that river.

*Hackney Brook Sewer (Main Line).*

Commences in the High-road opposite to St. John's Church, Upper Holloway, and extends thence in a south-east direction along Holloway-road, to a point about 450 feet south of Tollington-road, thence in an easterly direction by the north of Abney-park Cemetery, Hackney-downs, and Hackney-wick, and discharges into the river Lea, immediately to the north of Old Ford-wharf.

*Hackney Brook Sewer (Wick Lane Branch).*

Commences in Old Ford-road, on the east side of Old Ford-bridge, crossing the Regent's Canal, and extends along Grove-road, Wick-lane, and joins the main sewer at Hackney-wick.

SOUTH SIDE OF THE THAMES.

*Beverley Brook.*

Commences on the boundary between the parishes of Putney and Wimbledon, at a point about 1800 feet south of Beverley-bridge, on the Kingston-road, and discharges into the river Thames about half a mile above Putney town.

*Sewer between Parishes of Putney and Wandsworth.*

Commences on the road from Kingston to Wandsworth, and discharges into the river Thames at a point about 1500 feet below Fulham-bridge.

*Wandle River.*

Commences at a point where the parishes of Streatham and Tooting intersect the river, and discharges into the river Thames at the town of Wandsworth.

*Falcon Brook.*

Commences at Tooting-common, and discharges into the river Thames at Battersea creek.

*Lord Spencer's Sewer.*

Commences in the town of Battersea, and extends in an easterly direction through Battersea-park, and discharges into the river Thames at about 400 feet below Battersea New-bridge.

*Heath Wall Sewer (Main Line).*

Commences at the Falcon Brook at a sluice about 300 feet north of the South-Western Railway, and extending along the south margin of Battersea-fields, discharges into the Thames at Heath Wall-mill.

*Heath Wall Sewer (Clapham Rise Branch).*

Commences on the boundary between the parishes of Clapham and Lambeth at the intersection of New-road with Clapham-rise, and extends along the east side of Clifton-street, and joins the main sewer at a point about 100 feet north-east of New-road, Battersea-fields.

*Effra Sewer.*

Commences at the boundary between the parishes of St. Mary Lambeth and Croydon, in Westow-hill-road, immediately opposite to the convent of "Our Lady," and discharges into the river Thames at Vauxhall creek, on the south side of the Phœnix Gasworks, and near to Vauxhall-bridge.

*Effra Sewer (Upper Norwood Branch).*

Commences in Westow-hill-road on the boundary between the parishes of Lambeth and Croydon, at about 200 feet west of the Crystal Palace Hotel, and proceeds northward along the boundary between the parishes of St. Mary Lambeth and St. Giles Camberwell, and joins the main sewer at a point about 230 feet west of Croxted-lane.

*Duffield and Battle Bridge Sewers.*

These sewers drain the most densely inhabited portions of the south side. The inlets for flushing purposes are at Kennington, Vauxhall, Lambeth Church, and Stangate. The outlets are by the following sluices, viz., the Arnold and Dover sluices near Waterloo-bridge; Pudding-mill, near Blackfriars-bridge; the Boar's Head, Welsh Troopers, Black Lion, and Bear sluices, near Southwark-bridge; the Bridge-yard, Battle-bridge; and Green-bank, in St. Olave Southwark; Freeman's-lane, St. John Jerusalem; and Great St. John in Horsleydown; and the Salisbury and Duffield sluices, in Bermondsey.

*Limekiln Sluice.*

Drains the open fields of part of the parish of Rotherhithe, and proceeds along Swan-lane, and discharges into the river Thames at about 300 feet east of the Thames Tunnel.

*Globe Stairs Sewer.*

Drains the northern basin of the Commercial Dock Company, and extends along the eastern side of St. Paul's Church, Rotherhithe, and part of Rotherhithe-street, and discharges into the river Thames at Globe-stairs.

*Sewer at Durand's Wharf (Rotherhithe).*

Commences to the south-east of Bull-head Dock, Rotherhithe, and pursues an easterly course by Rotherhithe and Lower-Queen-street, and discharges into the river Thames at a "10 footway," opposite to Cow-lane.

*Rotherhithe Pier Sewer.*

Commences in Trinity-street, at a point about 400 feet south of Cow-lane, and proceeds along Trinity-street, and discharges into the river Thames at Rotherhithe Boat Pier.

*Earl Sewer (Main Line).*

Commences in Cold Harbour-lane, at a point about 1100 feet north-east of its junction with Loughborough-road, and proceeds along High-street, Camberwell, Camberwell-road, Boundary-lane, and eastward along the boundaries of several parishes, and discharges into the river Thames on the boundary between the counties of Surrey and Kent, near to the Royal Dock-yard, Deptford.

*Earl Sewer (Wyndham Road Branch).*

Commences on the east side of Kennington-park, and proceeds along New-row, and southward on the east of Thomas-street, eastward along Wyndham-road, and joins the main sewer at a point about 100 feet south of Southampton-street, Camberwell.

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*Earl Sewer (White Post Lane Branch).*

Commences in Victoria-road, at the junction with Choumert-place and Cutthroat-lane, near Peckham-rye, and proceeds along Victoria-road, Hanover-street, Rye-lane, High-street, Meeting-house-lane, Halfway-house-lane, and White-post-lane, and joins the main sewer at the junction of the parishes of Rotherhithe, St. Paul's Deptford, and St. Giles Camberwell.

*Royal Dock Yard Sewer.*

Commences on the east of Black Horse-bridge, and extends eastward on the south side of the Mast-pond, and discharges into the river Thames opposite to the Royal Victualling Yard.

*Ravensbourne and Sydenham Sewer.*

Commences at Bell-green, and extends along and by Catsford-hill-road, Lewisham, and Bromley-road, Silver-street, Loam-pit-vale, and Mill-lane, and discharges into Deptford creek at Pariah-wharf, near Kingsford-mill.

*Ravensbourne and Lee Green Sewer.*

Commences in the Eltham-road, about 300 feet east of Lee-green, and proceeds along Lee-road, Lewisham-road, Bath-place, Egerton-road, and North Pole-lane, to a pumping station, where it discharges into Deptford creek, at a point about 400 feet north of the London and Greenwich Railway.

*Horseferry Road (Greenwich).*

Commences in Caroline-street and Roan-street, and proceeds along Union and Bridge streets, and discharges into the river Thames at Horseferry.

## SCHEDULE (E.)

*Form of Mortgage of Rates.*

Mortgage, number ( )

By virtue of an act passed in the year of the reign of Queen Victoria, intituled [*here insert the title of this act*], the metropolitan board of works, *or* the board of works for the district of *or* the vestry of the parish of (*as the case may be*), in consideration of the sum of paid to by *A.B.* of for the purposes of the said act, do grant and assign unto the said *A.B.* his executors, administrators, and assigns, all [*here describe the monies or rates to be mortgaged*], to hold to the said *A.B.*, his executors, administrators, and assigns, from the day of the date hereof until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied; and it is hereby declared that the said principal sum shall be repaid on the day of and that in the meantime the interest thereof shall be paid on the day of and the day of in every year.

In witness whereof the metropolitan board of works, *or* the said district board, *or* the said vestry (*as the case may be*), have hereunto set their seal, this day of one thousand eight hundred and .

## SCHEDULE (F.)

*Form of Transfer of Mortgage.*

I *A.B.* of in consideration of the sum of pounds paid to me by *C.D.* of do hereby transfer to the said *C.D.* his executors, administrators, and assigns, a certain mortgage, number , bearing date the day of and made by the metropolitan board of works, *or* the board of works for the district of *or* the vestry of the parish of for securing the sum of and interest [*or, if such transfer be by indorsement on the mortgage, insert, instead of the words after "assigns,"*

the within security], and all my property, right, and interest in and to the money thereby secured, and in and to the monies thereby assigned. In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and .

18 & 19 Vict. c. 120.

*A.B.* (L.S.)

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## 18 & 19 Vict. c. 121.

18 & 19 Vict. c. 121.

***An Act to consolidate and amend the Nuisances Removal and Diseases Prevention Acts, 1848 and 1849 (a).***

[14th August, 1855.]

11 & 12 Vict. c. 123. 12 & 13 Vict. c. 111.

WHEREAS the provisions of "The Nuisances Removal and Diseases Prevention Act, 1848," amended by "The Nuisances Removal and Diseases Prevention Amendment Act, 1849," are defective, and it is expedient to repeal the said acts as far as relates to England, and to substitute other provisions more effectual in that behalf: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Recited acts repealed as far as relates to England, except as to proceedings commenced.

I. From and after the passing of this act, the said acts are by this section repealed, as far as relates to England: provided always, that all proceedings commenced or taken under the said acts, and not yet completed, may be proceeded with under the said acts; and all contracts or works undertaken by virtue of the said acts shall continue and be as effectual as if the said acts had not been repealed.

Interpretation of certain terms used in this act.

II. In this act the following words and expressions have the meanings by this section hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context; (that is to say,) the word "place" includes any city, borough, district under the Public Health Act, parish, township, or hamlet, or part of any such city, borough, district, town, parish, township, or hamlet; the word "guardians" includes the directors, wardens, overseers, governors, or other like officers having the management of the poor for any parish or place where the matter or any part of the matter requiring the cognizance of any such officer arises; the word "borough," and the expressions "mayor, aldermen, and burgesses," "council," and "borough fund," have respectively the same meaning as in the acts for the regulation of municipal corporations, and shall also respectively mean, include, and apply to any royal borough, royal town, or other town having a warden, high bailiff, borough reeve, or other chief officer, and burgesses or inhabitants, however designated, associated with him in the government or management thereof, or any town or place having a governing body therein in the nature of a corporation or otherwise, and to the chief officers and governing bodies of such boroughs, towns, and places, and to the funds and property under the management of or at the disposal of such chief officers and governing bodies; the expression "Improvement Act" means an act for regulating and managing the police of, and for draining, cleansing, paving, lighting, watching, and improving a place, and an act for any of those purposes; the word "owner" includes any person receiving the rents of the property in respect of which that word is used from the occupier of such property on his own account, or as trustee or agent for any other person, or as receiver or sequestrator appointed by the Court of Chancery or under any order thereof, or who would receive the same if such property were let to a tenant; the word "premises" extends to all messuages, lands, or tenements, whether open or inclosed, whether built on or not, and whether public or private; the word

(a) See "Removal of Nuisances," p. 51.

18 & 19 Vict. c. 121.

"parish" includes every township or place separately maintaining its poor, or separately maintaining its own highways; the expression "quarter sessions" means the court of general or quarter sessions of the peace for a county, riding, or division of a county, city, or borough; the word "person," and words applying to any person or individual apply to and include corporations, whether aggregate or sole; and the expression "two justices" shall, in addition to its ordinary signification, mean one stipendiary or police magistrate acting in any police court for the district.

PART I. Constitution of local authority, expenses, description of nuisances, and powers of entry.

And with respect to the constitution of the local authority for the execution of this act, the expenses of its execution, the description of nuisances that may be dealt with under it, and the powers of entry for the purposes of the act, be it enacted thus:

*The local authority to execute this act in places as herein stated.*

III. *The following bodies shall respectively be the local authority to execute this act in the districts hereunder stated in England:*

*In any place within which the Public Health Act is or shall be in force, the local board of health:*

*In any other place wherein a council exists or shall exist, the mayor, aldermen, and burgesses by the council, except in the city of London and the liberties thereof, where the local authority shall be the commissioners of sewers for the time being; and except in the city of Oxford and borough of Cambridge, where the local authority shall be the commissioners acting in execution of the Local Improvement Acts in force respectively in the said city and borough:*

*In any place in which there is no local board of health or council, and where there are or shall be trustees or commissioners under an Improvement Act, such trustees or commissioners:*

*In any place within which there is no such local board of health nor council, body of trustees, or commissioners, and where there is or shall be a board for the repair of the highways of such place, that board:*

*In any place where there is no such local board of health, council, body of trustees, or commissioners, nor highway board, a committee for carrying this act into execution, by the name of "The Nuisances Removal Committee," of which the surveyor or surveyors of highways for the time being of such place shall be ex officio a member or members, may be annually chosen by the vestry on the same day as the overseers or surveyors of highways, and the first of such committees may be chosen at a vestry to be specially held for that purpose; and such committee may consist of such number of members as the vestry shall determine, not being more than twelve, exclusive of such surveyor or surveyors, and of such committee three shall be a quorum:*

*In any place wherein there is no such local board of health, council, body of trustees or commissioners, highway board or committee appointed as aforesaid, and wherein there is or shall be a board of inspectors for lighting and watching under the act 3 & 4 W. 4, c. 90, that board with the surveyors of highways;*

*In any place in which there is no such local board of health, council, body of trustees, or commissioners, nor highway board, nor committee appointed as aforesaid, nor board of inspectors for lighting and watching, the guardians and overseers of the poor and the surveyors of the highways in and for such place*(a).

As to filling up vacancies.

IV. On any vacancy in such nuisances removal committee arising from death, change of residence or otherwise, notice shall be given by the committee to the churchwardens, who shall forthwith summon a meeting of the vestry, and fill up such vacancy by election; and until such vacancy is filled up the remaining members of the committee may act in all respects as if their number was complete.

Power to local autho-

V. The local authority may appoint any committee of their own body to

(a) See 23 & 24 Vict. c. 77, s. 1 post.

receive notices, take proceedings, and in all or certain specified respects execute this act, whereof two shall be a quorum; and such local authority, or their committee, may, in each particular case, by order in writing under the hand of the chairman of such body or committee, empower any officer or person to make complaints and take proceedings on their behalf.

*Authority to appoint committees.*

VI. *In extra-parochial places not comprised within the jurisdiction of any of the local authorities aforesaid, and having a population of not less than two hundred persons, the local authority for the execution of this act shall be a nuisances removal committee, elected annually by the householders within the extra-parochial place;*

*As to the execution of this act in extra-parochial places.*

*The first election of such committee shall take place at a meeting of such householders summoned for that purpose by the churchwardens of the adjacent place having the largest common boundary with such extra-parochial place; and*

*Subsequent elections shall be held annually on some day in Easter week at meetings summoned by the chairman of the local authority for the year preceding:*

*Extra-parochial places not so comprised as aforesaid, and having a population of less than two hundred persons(a), shall for the purpose of this act be attached to and form part of the adjacent place having the largest common boundary with the extra-parochial place, and notice of vestry meetings for the election of a local authority under and for the purposes of this act shall be given in such extra-parochial places, and the householders within such places may attend such vestry meetings, and vote on such elections.*

*As to defraying expenses of executing this act.*

VII. *All charges and expenses incurred by the local authority in executing this act, and not recovered, as by this act provided, may be defrayed as follows; to wit,*

*Out of general district rates, where the local authority is a local board of health;*

*Out of the borough fund or borough rate, where the local authority is the mayor, aldermen, and burgesses by the council, or if there be an Improvement Act for the borough administered by the council, then out of rates levied thereunder applicable to the purposes of such improvement act; or in the city of London and the liberties thereof, any rates or funds administered by the commissioners of sewers for the said city and liberties;*

*Provided always, that in the city of Oxford and borough of Cambridge such expenses shall be deemed annual charges and expenses of cleansing the streets of the said city and borough respectively, and shall be so payable;*

*Out of the rates levied for purposes of improvement under any improvement act, where the local authority is a body of trustees or commissioners acting in execution of the powers of such an act;*

*Out of highway rates, or any fund applicable in aid or in lieu thereof, where the local authority is a highway board, or a nuisances removal committee;*

*Out of the rates for lighting and watching, where the local authority is a board of inspectors appointed for lighting and watching;*

*And if there be no such rates or funds, or if the local authority be the guardians and surveyors of highways, then out of the rates or funds applicable to the relief of the poor of the parish or place wherein such rates or funds are collected or arise, if such parish or place be co-extensive with the district within which the charges and expenses are incurred, but if such parish or place be now or hereafter shall be partly comprised within and partly without the limits of a place where a local*

(a) An extra parochial place having no population was held to be within this section (*R.* v. *Gee*, 28 L. J., Q. B. 298).

18 & 19 VICT. c. 121.

*authority, other than a highway board, nuisance removal committee, inspectors of watching and lighting, and surveyors or guardians and surveyors, exists or shall exist, all the charges and expenses incurred in the district comprising that part of the parish or place which is excluded from such limits shall be defrayed out of any highway rate or rates, or any funds applicable in lieu thereof, collected or raised within the part so excluded; and if there be more than one highway rate collected within such district, the local authority shall settle the proportion in which the respective parties or places liable thereto shall bear such charges and expenses; and if any portion of such excluded part be exempt from such highway rate or rates, then all the charges and expenses incurred in the whole of such excluded part shall be defrayed out of any district police rate or other rate which may by the Act 12 & 13 Vict. cap. 65 be raised and assessed upon such excluded part:*

*And when the local authority has not control of such rates or funds, the officer or person having the custody or control thereof shall pay over the amount to the local authority, on the order of two justices, directed to such officer or person; and on neglect or refusal to pay the sum specified in such order for six days after the service thereof, the same may, by warrant under the hands of the same or any two justices, be levied by distress and sale of the goods and chattels of the officer or person in default, and such levy shall include the costs of such distress and sale:*

*In extra-parochial places having a population of not less than two hundred persons, out of a rate assessed by the local authority on all such property in the place as would be assessable to highway rate if such rate were levied therein:*

*In extra parochial places having a population of less than two hundred persons, out of a similar rate assessed by the surveyor of highways of the adjacent place having the largest common boundary with such extra-parochial place:*

*And the local authority in the first case, and the surveyor of highways in the second, may levy and collect the sums so assessed, in the same manner, and with the same remedies in case of any default in payment thereof, and with the same right of appeal against the amount of such assessment reserved to the person assessed, as are provided by the law in force for the time being with regard to rates for the repair of highways* (a).

What are deemed nuisances under this act.

VIII. The word "nuisances" under this act shall include—

Any premises in such a state as to be a nuisance or injurious to health:

Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul as to be a nuisance or injurious to health:

Any animal so kept as to be a nuisance or injurious to health:

Any accumulation or deposit which is a nuisance or injurious to health:

Provided always, that no such accumulation or deposit as shall be necessary for the effectual carrying on of any business or manufacture shall be punishable as a nuisance under this section, when it is proved to the satisfaction of the justices that the accumulation or deposit has not been kept longer than is necessary for the purposes of such business or manufacture, and that the best available means have been taken for protecting the public from injury to health thereby.

*Power to local authority to appoint a sanitary inspector, and allow him a proper salary.*

IX. *The local authority shall, for the purposes of this act, appoint or employ, or join with other local authorities in appointing or employing, a sanitary inspector or inspectors, and may appoint a convenient place for his or their office, and may allow to every such person on account of his employment a proper salary or allowance; and where local authorities join in such appointment or employment they may apportion among them-*

(a) See 23 & 24 Vict. c. 77, s. 1, *post*.

*ves the payment of such salary or allowance: provided always, that where the local authority has already appointed an officer who executes the duties of such inspector under any improvement act, it shall not be necessary to appoint any other inspector under this act, but the inspector acting in execution of the improvement act shall have all the powers, authorities, and privileges granted to any inspector appointed under this act (a).*

18 & 19 Vict. c. 121.

Notice of nuisances to be given to local authority, &c., to ground proceedings.

X. Notice of nuisance may be given to the local authority by any person aggrieved thereby, or by any of the following persons; the sanitary inspector or any paid officer under the said local authority; two or more inhabitant householders of the parish or place to which the notice relates; the relieving officer of the union or parish; any constable or any officer of the constabulary or police force of the district or place; and in case the premises be a common lodging house, any person appointed for the inspection of common lodging houses; and the local authority may take cognizance of any such nuisance after entry made as hereinafter provided, or in conformity with any improvement act under which the inspector has been appointed.

Power of entry to local authority or their officer.

XI. The local authority shall have power of entry for the following purposes of this act, and under the following conditions:

1. To ground proceedings.

For this purpose, when they or any of their officers have reasonable grounds for believing that a nuisance exists on any private premises, demand may be made by them or their officer, on any person having custody of the premises, of admission to inspect the same, at any hour between nine in the morning and six in the evening; and if admission be not granted, any justice having jurisdiction in the place (*b*) may, on oath made before him of belief in the existence of the nuisance, and after reasonable notice of the intended application to such justice being given in writing to the party on whose premises the nuisance is believed to exist, by order under his hand require the person having the custody of the premises to admit the local authority or their officer; and if no person having custody of the premises can be discovered, any such justice may and shall, on oath made before him of belief in the existence of such nuisance, and of the fact that no person having custody of the premises can be discovered, by order under his hand authorize the local authority or their officers to enter the premises between the hours aforesaid.

2. To examine premises where nuisances exist, to ascertain the course of drains, and to execute or inspect works ordered by justices to be done under this act.

For these purposes, whenever, under the provisions of this act, a nuisance has been ascertained to exist, or when an order of abatement or prohibition under this act has been made, or when it becomes necessary to ascertain the course of a drain, the local authority may enter on the premises, by themselves or their officers, between the hours aforesaid, until the nuisance shall have been abated, or the course of the drain shall have been ascertained, or the works ordered to be done shall have been completed, as the case may be.

3. To remove or abate a nuisance in case of noncompliance with or infringement of the order of justices, or to inspect or examine any carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour, under the powers and for the purposes of this act.

For this purpose the local authority or their officer may from time to time enter the premises where the nuisance exists, or the carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour is found, at all reasonable hours, or at all hours during which business is carried on on such premises, without notice.

(*a*) See 23 & 24 Vict. c. 77, s. 1, *post*.
(*b*) See note, p. 45.

18 & 19 Vict. c. 121.

PART II. *With regard to removal of nuisances.*

With regard to the removal of nuisances, be it enacted thus:

Proceedings by local authority before justices in the case of nuisances likely to recur, &c.

XII. In any case where a nuisance is so ascertained by the local authority to exist, or where the nuisance in their opinion did exist at the time when the notice was given, and, although the same may have been since removed or discontinued, is in their opinion likely to recur or to be repeated on the same premises or any part thereof, they shall cause complaint thereof to be made before a justice of the peace; and such justice shall thereupon issue a summons requiring the person by whose act, default, permission, or sufferance the nuisance arises or continues, or if such person cannot be found or ascertained, the owner or occupier of the premises on which the nuisance arises, to appear before any two justices in petty sessions assembled at their usual place of meeting, who shall proceed to inquire into the said complaint: and if it be proved to their satisfaction that the nuisance exists, or did exist at the time when the notice was given, or, if removed or discontinued since the notice was given, that it is likely to recur or to be repeated, the justices shall make an order in writing under their hands and seals on such person, owner, or occupier for the abatement or discontinuance and prohibition of the nuisance as hereinafter mentioned, and shall also make an order for the payment of all costs incurred up to the time of hearing or making the order for abatement or discontinuance or prohibition of the nuisance (*a*).

If proved to justices that nuisance exists, &c., they shall issue order for abatement, &c.

Justices' order for abatement.

XIII. By their order the justices may require the person on whom it is made to provide sufficient privy accommodation, means of drainage or ventilation, or to make safe and habitable, or to pave, cleanse, whitewash, disinfect, or purify the premises which are a nuisance or injurious to health, or such part thereof as the justices may direct in their order, or to drain, empty, cleanse, fill up, amend, or remove the injurious pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit which is a nuisance or injurious to health, or to provide a substitute for that complained of, or to carry away the accumulation or deposit which is a nuisance or injurious to health, or to provide for the cleanly and wholesome keeping of the animal kept so as to be a nuisance or injurious to health, or if it be proved to the justices to be impossible so to provide, then to remove the animal, or any or all of these things (according to the nature of the nuisance), or to do such other works or acts as are necessary to abate the nuisance complained of, in such manner and within such time as in such order shall be specified: and if the justices are of opinion that such or the like nuisance is likely to recur, the justices may further prohibit the recurrence of it, and direct the works necessary to prevent such recurrence, as the case may in the judgment of such justices require (*a*): and if the nuisance proved to exist be such as to render a house or building, in the judgment of the justices, unfit for human habitation, they may prohibit the using thereof for that purpose until it is rendered fit for that purpose in the judgment of the justices, and on their being satisfied that it has been rendered fit for such purpose they may determine their previous order by another declaring such house habitable, from the date of which other order such house may be let or inhabited.

Prohibitive order against future nuisance.

Penalty for contravention of order of abatement; and of prohibition.

XIV. Any person not obeying the said order for abatement shall, if he fail to satisfy the justices that he has used all due diligence to carry out such order, be liable for every such offence to a penalty of not more than ten shillings per day during his default; and any person knowingly and wilfully acting contrary to the said order of prohibition shall be liable for every such offence to a penalty not exceeding twenty shillings per day during such contrary action; and the local authority may, under the powers of entry given by this act, enter the premises to which the order relates, and remove or abate the nuisance condemned or prohibited, and

Local authority may enter and remove or abate nuisance.

(*a*) See note, p. 54. See also 23 & 24 Vict. c. 77, s. 13, *post*.

do whatever may be necessary in execution of such order (*a*), and charge the cost to the person on whom the order is made as hereinafter provided.

Appeal against order of prohibition.

XV. Any such order of prohibition may be appealed against as provided in this act.

Appeal against order of abatement when structural works are required.

XVI. When it shall appear to the justices that the execution of structural works (*b*) is required for the abatement of a nuisance, they may direct such works to be carried out under the direction or with the consent or approval of any public board, trustees, or commissioners having jurisdiction in the place in respect of such works; and if within seven days from the date of the order the person on whom it is made shall have given notice to the local authority of his intention to appeal against it as provided in this act, and shall have entered into recognizances to try such appeal as provided by this act, and shall appeal accordingly, no liability to penalty shall arise, nor shall any work be done nor proceedings taken under such order, until after the determination of such appeal, unless such appeal cease to be prosecuted.

If person causing nuisance cannot be found, local authority to execute order at once.

XVII. Whenever it appears to the satisfaction of the justices that the person by whose act or default the nuisance arises, or the owner or occupier of the premises, is not known or cannot be found, then such order may be addressed to and executed by such local authority, and the cost defrayed out of the rates or funds applicable to the execution of this act.

Manure, &c., to be sold.

XVIII. Any matter or thing removed by the local authority in pursuance of this enactment may be sold by public auction, after not less than five days notice by posting bills distributed in the locality, unless in cases where the delay would be prejudicial to health, when the justices may direct the immediate removal, destruction, or sale of the matter or thing; and the money arising from the sale retained by the local authority, and applied in payment of all expenses incurred under this act with reference to such nuisance, and the surplus, if any, shall be paid, on demand, by the local authority, to the owner of such matter or thing.

Costs and expenses of works to be paid by person on whom order is made, or owner or occupier.

XIX. All reasonable costs and expenses from time to time incurred in making a complaint, or giving notice or in obtaining an order of justices under this act, or in carrying the same into effect under this act, shall be deemed to be money paid for the use and at the request of the person on whom the order is made; or if the order be made on the local authority, or if no order be made but the nuisance be proved to have existed when the complaint was made or the notice given, then of the person by whose act or default the nuisance was caused; and in case of nuisances caused by the act or default of the owner of premises, the said premises shall be and continue chargeable with such costs and expenses, and also with the amount of any penalties incurred under this act, until the same be fully discharged, provided that such costs and expenses shall not exceed in the whole one year's rackrent of the premises; and such costs and expenses and penalties, together with the charges of suing for the same, may be recovered in any county or superior court, or, if the local authority think fit, before any two justices of the peace (*c*); and the said justices shall have power to divide such costs, expenses, and penalties between the persons by whose act or default the nuisance arises, in such manner as they shall consider reasonable; and if it appear to them that a complaint made under this act is frivolous or unfounded, they may order the payment by the local authority or person making the complaint of the costs incurred by the person against whom the complaint is made, or any part thereof.

Proceedings

XX. Where any costs, expenses, or penalties are due under or in con-

(*a*) See note. p. 54.

(*b* "As are required in respect of private nuisances mentioned in ss. 12, 13, and 14" (*R. v. Middleton Committee*, 28 L.J., M. C. 41: 5 Jur., N.S., 622).

(*c*) See *R. v. Harden*, 17 Jur. 804, 22 L. J., Q. B. 299. *Hertford Union v. Kimpton*, 25 L. J., M. C. 41.

18 & 19 Vict. c. 121.

sequence of any order of justices made in pursuance of this act as aforesaid, any justice of the peace, upon the application of the local authority, shall issue a summons requiring the person from whom they are due to appear before two justices at a time and place to be named therein; and upon proof to the satisfaction of the justices present that any such costs, expenses, or penalties are so due, such justices, unless they think fit to excuse the party summoned upon the ground of poverty or other special circumstances, shall, by order in writing under their hands and seals, order him to pay the amount to the local authority at once, or by such instalments as the justices think fit, together with the charges attending such application and the proceedings thereon; and if the amount of such order, or any instalment thereof, be not paid within fourteen days after the same is due, the same may, by warrant of the said or other justices, be levied by distress and sale.

before justices to recover expenses.

Surveyors of highways to cleanse ditches, &c., paying owners, &c., for damages.

XXI. All surveyors and district surveyors may make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses in and through any lands or grounds adjoining or lying near to any highway, upon paying the owner or occupier of such lands or grounds, provided they are not waste or common, for the damages which he shall thereby sustain, to be settled and paid in such manner as the damages for getting materials in inclosed lands or grounds are directed to be settled and paid by the law in force for the time being with regard to highways.

Power to local authority to cover and improve open ditches, &c.

XXII. Whenever any ditch, gutter, drain, or watercourse used or partly used for the conveyance of any water, filth, sewage, or other matter from any house, buildings, or premises is a nuisance within the meaning of this act, and cannot, in the opinion of the local authority, be rendered innocuous, without the laying down of a sewer or of some other structure along the same or part thereof or instead thereof, such local authority shall and they are hereby required to lay down such sewer or other structure (*a*), and to keep the same in good and serviceable repair, and they are hereby declared to have the same powers as to entering lands for the purposes thereof, and to be entitled to recover the same penalties in case of interference, as are contained in the sixty-seventh and sixty-eighth sections of the act passed in the fifth and sixth years of the reign of king William the Fourth, intituled an act for consolidating and amending the laws relating to highways in England; and such local authority are hereby authorised and empowered to assess every house, building, or premises then or at any time thereafter using (*b*) for the purposes aforesaid the said ditch, gutter, drain, watercourse, sewer, or other structure, to such payment, either immediate or annual, or distributed over a term of years, as they shall think just and reasonable, and, after fourteen days' notice at the least left on the premises so assessed, to levy and collect the sum and sums so assessed in the same manner, and with the same remedies in case of default in payment thereof, as highway rates are by the law in force for the time being leviable and collectable, and with the same right and power of appeal against the amount of such assessment reserved to the person or persons so assessed as by the law for the time being in force shall be given against any rate made for the repair of the highways (*c*); and the provisions contained in this section shall be deemed to be part of the law relating to highways in England: provided always, that where such ditch, gutter, drain, or watercourse shall, as to parts thereof, be within the jurisdiction of different local authorities, this enact-

(*a*) The Local authority may proceed to act without an order of justices. *R.* v. *Middleton Committee*, 28 L. J., M. C. 41; 5 Jur., N.S., 622. *R.* v. *Justices of Middlesex*, 6 E. & B. 395.

(*b*) See note, p. 86.

(*c*) The fourteen days notice of appeal runs from the service of the notice of assessment, *R.* v. *Middleton Committee*, 28 L. J., M. C. 41; 5 Jur., N.S., 622; *R.* v. *Justices of Salop*, 8 A. & E. 173.

ment shall apply to each local authority only as to so much of the works hereby required, and the expenses thereof, as is included within the respective jurisdiction of that authority: provided also, that such assessment shall in no case exceed a shilling in the pound on the assessment to the highway rate, if any.

Penalty for causing water to be corrupted by gas washings.

XXIII. Any person or company engaged in the manufacture of gas who shall at any time cause or suffer (*a*) to be brought or to flow into any stream, reservoir, or aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, shall forfeit for every such offence the sum of two hundred pounds.

Penalty to be sued for in superior courts within six months.

XXIV. Such penalty may be recovered, with full costs of suit, in any of the superior courts, by the person into whose water such washing or other substance shall be conveyed or shall flow, or whose water shall be fouled by any such act as aforesaid, or if there be no such person, or in default of proceedings by such person, after notice to him from the local authority of their intention to proceed for such penalty, by the local authority; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased.

Daily penalty during the continuance of the offence.

XXV. In addition to the said penalty of two hundred pounds (and whether such penalty shall have been recovered or not), the person or company so offending shall forfeit the sum of twenty pounds (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or during which the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on such person or company by the local authority, or the person into whose water such washing or other substance shall be brought or flow or whose water shall be fouled thereby, and such penalty shall be paid to the parties from whom such notice shall proceed; and all monies recovered by a local authority under this or the preceding section shall, after payment of any damage caused by the act for which the penalty is imposed, be applied towards defraying the expenses of executing this act.

*Penalty on sale of unwholesome meat, &c.*

XXVI. *The sanitary inspector may at all reasonable times inspect and examine any carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour exposed for sale, or in the course of or on their way to slaughtering, dressing, or preparation for sale or use, or landed from any ship or vessel in any port in England; and in case any such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour appear to him to be unfit for such food the same may be seized; and if it appear to a justice that any such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the person to whom such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour belongs, or in whose custody the same is found, shall be liable to a penalty not exceeding ten pounds for every carcase, fish, or piece of meat, flesh, or fish, or any poultry or game, or for the parcel of fruit, vegetables, corn, bread, or flour so found* (*b*).

As to nuisances arising in cases of noxious

XXVII. If any candle house, melting house, melting place, or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling, burning, or crushing bones, or any manufactory,

(*a*) This will include an involuntary act (See *Hipkins* v. *B. & S. Gas Co.*, note, p. 45).

(*b*) See 26 & 27 Vict. c. 117, s. 1, *post*.

18 & 19 Vict. c. 121.

trades, businesses, processes, or manufactures.

building, or place used for any trade, business, process, or manufacture causing effluvia, be at any time certified to the local authority by any medical officer (*a*), or any two legally qualified medical practitioners, to be a nuisance or injurious to the health of the inhabitants of the neighbourhood, the local authority shall direct complaint to be made before any justice, who may summon before any two justices in petty sessions assembled at their usual place of meeting the person by or in whose behalf the work so complained of is carried on, and such justices shall inquire into such complaint, and if it shall appear to such justices that the trade or business carried on by the person complained against is a nuisance, or causes any effluvia injurious to the health of the inhabitants of the neighbourhood, and that such person shall not have used the best practicable means for abating such nuisance or preventing or counteracting such effluvia, the person so offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier), shall, upon a summary conviction for such offence, forfeit and pay a sum of not more than five pounds nor less than forty shillings, and upon a second conviction for such offence the sum of ten pounds, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of two hundred pounds: provided always, that the justices may suspend their final determination in any such case, upon condition that the person so complained against shall undertake to adopt, within a reasonable time, such means as the said justices shall judge to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of such effluvia, or shall give notice of appeal in the manner provided by this act, and shall enter into recognizances to try such appeal, and shall appeal accordingly: provided always, that the provisions hereinbefore contained shall not extend or be applicable to any place without the limits of any city, town, or populous district (*b*).

Reference to superior court at the option of the party complained against.

XXVIII. Provided also, that if, upon his appearance before such justices, the party complained against object to have the matter determined by such justices, and enter into recognizances, with sufficient sureties, to be approved by the justices, to abide the event of any proceedings at law or in equity that may be had against him on account of the subject matter of complaint, the local authority shall thereupon abandon all proceedings before the justices, and shall forthwith take proceedings at law or in equity in her Majesty's superior courts for preventing or abating the nuisance complained of (*c*).

On certificate of medical officer to local authority that house is overcrowded, proceedings may be taken to abate the same.

XXIX. Whenever the medical officer of health, if there be one, or if none, whenever two qualified medical practitioners, shall certify to the local authority that any house is so overcrowded as to be dangerous or prejudicial to the health of the inhabitants, and the inhabitants shall consist of more than one family, the local authority shall cause proceedings to be taken before the justices to abate such overcrowding, and the justices shall thereupon make such order as they may think fit, and the person permitting such overcrowding shall forfeit a sum not exceeding forty shillings.

Local authority to order costs of prosecutions to be paid out of the rates.

XXX. The local authority may, within the area of their jurisdiction, direct any proceedings to be taken at law or in equity in cases coming within the purview of this act, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this act, or in relation to appeals under

(*a*) See "Medical Officers," p. 174.

(*b*) See *Elliott* v. *South Devon Railway Co.*, 2 Exch. 725. *R.* v. *Cottle*, 16 Q. B. 413.

(*c*) See note, p. 53.

this act, and may order the expenses of all such proceedings to be paid out of the rates or funds administered by them under this act.

And with regard to procedure under this act, be it enacted, that



Notices, summonses, and orders.

XXXI. Notices, summonses, and orders under this act may be served by delivering the same to or at the residence of the persons to whom they are respectively addressed, and where addressed to the owner or occupier of premises they may also be served by delivering the same or a true copy thereof to some person upon the premises, or if there be no person upon the premises who can be so served, by fixing the same upon some conspicuous part of the premises, or if the person shall reside at a distance of more than five miles from the office of the inspector then by a registered letter through the post.

Proof of resolutions of local authority.

XXXII. Copies of any orders or resolutions of the local authority or their committee, purporting to be signed by the chairman of such body or committee, shall, unless the contrary be shown, be received as evidence thereof, without proof of their meeting, or of the official character or signature of the person signing the same.

As to proceedings taken against several persons for the same offence.

XXXIII. Where proceedings under this act are to be taken against several persons in respect of one nuisance caused by the joint act or default of such persons, it shall be lawful for the local authority to include such persons in one complaint, and for the justices to include such persons in one summons, and any order made in such a case may be made upon all or any number of the persons included in the summons, and the costs may be distributed as to the justices may appear fair and reasonable.

One or more joint owners or occupiers may be proceeded against alone.

XXXIV. In case of any demand or complaint under this act to which two or more persons, being owners or occupiers of premises, or partly the one or partly the other, may be answerable jointly or in common or severally, it shall be sufficient to proceed against any one or more of them without proceeding against the others or other of them; but nothing herein contained shall prevent the parties so proceeded against from recovering contribution in any case in which they would now be entitled to contribution by law.

Designation of "owner" or "occupier."

XXXV. Whenever, in any proceeding under this act, whether written or otherwise, it shall become necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

Penalty for obstructing execution of this act.

XXXVI. Whoever refuses to obey an order of justices under this act for admission on premises of the local authority or their officers, or wilfully obstructs any person acting under the authority or employed in the execution of this act, shall be liable for every such offence to a penalty not exceeding five pounds.

Penalty on occupier obstructing owner.

XXXVII. If the occupier of any premises prevent the owner thereof from obeying or carrying into effect the provisions of this act, any justice to whom application is made in this behalf shall, by order in writing, require such occupier to desist from such prevention, or to permit the execution of the works required to be executed, provided that such works appear to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this act; and if within twenty-four hours after the service of such order the occupier against whom it is made do not comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such non-compliance.

Penalties and expenses recoverable under 11 & 12 Vict. c. 43.

XXXVIII. Penalties imposed by this act for offences committed and sums of money ordered to be paid under this act may be recovered by persons thereto competent in England according to the provisions of the act of the eleventh and twelfth years of the present reign, chapter forty-three (*a*); and all penalties recovered by the local authority under this act

(*a*) See note, p. 55.

18 & 19 Vict. c. 121.

shall be paid to them, to be by them applied in aid of their expenses under this act.

Proceedings not to be quashed for want of form.

XXXIX. No order, nor any other proceeding, matter, or thing done or transacted in or relating to the execution of this act, shall be vacated, quashed, or set aside for want of form, nor shall any order, nor any other proceeding, matter or thing done or transacted in relation to the execution of this act, be removed or removeable by certiorari, or by any other writ or process whatsoever, into any of the superior courts; and proceedings under this act against several persons included in one complaint shall not abate by reason of the death of any among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Appeals under this act to be to quarter sessions.

XL. Appeals under this act shall be to the court of quarter sessions held next after the making of the order appealed against; but the appellant shall not be heard in support of the appeal unless within fourteen days after the making of the order appealed against he give to the local authority notice in writing stating his intention to bring such appeal, together with a statement in writing of the grounds of appeal, and shall within two days (*a*) of giving such notice enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the said court, and to abide the order of and pay such costs as shall be awarded by the justices at such court or any adjournment thereof; and the said court, upon hearing and finally determining the matter of the appeal, may, according to its discretion, award such costs to the party appealing or appealed against as they shall think proper, and its determination in or concerning the premises shall be conclusive and binding on all persons to all intents or purposes whatsoever: provided always, that if there be not time to give such notice and enter into such recognizance as aforesaid, then such appeal may be made to, and such notice, statement, and recognizance be given and entered into for, the next sessions at which the appeal can be heard; provided also, that on the hearing of the appeal no grounds of appeal shall be gone into or entertained other than those set forth in such statement as aforesaid; provided also, that in any case of appeal the court of quarter sessions may, if they think fit, state the facts specially for the determination of her Majesty's court of queen's bench, in which case it shall be lawful to remove the proceedings, by writ of certiorari or otherwise, into the said court of queen's bench.

Forms to be used as in schedule.

XLI. The forms contained in the schedule to this act annexed, or any forms to the like effect, varied as circumstances may require, may be used for instruments under this act, and shall be sufficient for the purpose intended.

As to protection of local authority and its officers.

XLII. The local authority, and any officer or person acting under the authority and in execution or intended execution of this act, shall be entitled to such protection and privilege in actions and suits, and such exemption from personal liability, as are granted to local boards of health and their officers by the law in force for the time being (*b*).

Act not to impair jurisdiction of sewers commissioners, or common law remedies for nuisance, nor jurisdiction of

XLIII. Nothing in this act shall be construed to affect the provisions of any local act as to matters included in this act, nor to impair, abridge, or take away any power, jurisdiction, or authority which may at any time be vested in any commissioners of sewers or of drainage, or to take away or interfere with any course of proceedings which might be resorted to or adopted by such commissioners if this act had not passed, nor to impair any power of abating nuisances at common law (*c*), nor any jurisdiction in respect of nuisances that may be possessed by any authority under the act intituled "An Act to abate the Nuisances arising from the Smoke of

(*a*) Sunday is to be counted. *Ex parte Simpkins*, 29 L. J., M. C. 23.
(*b*) See 11 & 12 Vict. c. 63, ss. 139-140, p. 293.
(*c*) See note, p. 53.

Furnaces in the Metropolis (*a*), and from Steam Vessels above London Bridge," or the Common Lodging Houses Acts (*b*), the Act for the Regulation of Municipal Corporations, the Public Health Act (*c*), or any Improvement Act respectively, or any acts incorporated with such acts, and authorities may respectively proceed for the abatement of nuisances, or in respect of any other matter or thing hereinbefore provided or referred to, either under the acts mentioned in this section or any other act conferring jurisdiction in respect of the nuisances referred to in this act, or any bye-laws framed under any such act, as they may think fit; and the local authorities constituted under and for the purposes of the Common Lodging House Acts, 1851 and 1853, shall for the purposes of those acts have all the powers of local authorities under this act (*d*). 18 & 19 Vict. c. 121. local authority as to the nuisances referred to in this act.

XLIV. Nothing herein contained shall enable any local authority, surveyor of highways, or other person, either with or without any order of justices, to injuriously affect the navigation of any river or canal, or to divert or diminish any supply of water of right belonging to any such river or canal; and the provisions of this act shall not extend or be construed to extend to mines of different descriptions so as to interfere with or obstruct the efficient working of the same, or to the smelting of ores and minerals, or to the manufacturing of the produce of such ores and minerals. Act not to affect navigation of rivers or canals.

XLV. No power given by this act shall be exercised in such manner as to injuriously affect the supply, quality, or fall of water contained in any reservoir or stream, or any feeders of such reservoir or stream belonging to or supplying any waterwork established by act of parliament, or in cases where any company or individual are entitled for their own benefit to the use of such reservoir or stream, or to the supply of water contained in such feeders, without the consent in writing of the company or corporation in whom such waterworks may be vested, or of the parties so entitled to the use of such reservoirs, streams, and feeders, and also of the owners thereof in cases where the owners and parties so entitled are not the same person. Saving as to rights of millowners, &c.

XLVI. In citing this act in other acts of parliament, and in legal instruments and other proceedings, it shall be sufficient to use the words "The Nuisances Removal Act for England, 1855." Short title.

## SCHEDULE OF FORMS.

### FORM (A.)

*Order of Justices for Admission of Officer of Local Authority to inspect private Premises.*

WHEREAS [*describe the local authority*] have by their officer [*naming him*] made application to me *A.B.*, one of her Majesty's justices of the peace having jurisdiction in and for [*describe the place*], and the said officer has made oath to me of his belief that a nuisance, within the meaning of the Nuisances Removal Act for England, 1855, viz. [*describe nuisance*], exists on private premises at [*describe situation of premises so as to identify them*], within my jurisdiction, and demand of admission to such premises for the inspection thereof has been duly made under the said act, and refused:

Now, therefore, I the said *A.B.* do hereby require you to admit the said [*name the local authority*], [*or* the officer of the said (*local authority*)], for the purpose of inspecting the said premises.

Dated this day of 18 .

*A.A.*

(*a*) See "Prevention of Smoke," p. 62.
(*b*) See "Lodging Houses," p. 82
(*c*) See 11 & 12 Vict. c. 63; 21 & 22 Vict. c. 98, &c.
(*d*) See "Lodging Houses," p. 83.

18 & 19 Vict. c. 121.

FORM (B.)

*Notice of Nuisance.*

To the local authority (*describing it*).

I [*or* We], the person aggrieved by the nuisance hereinafter described [*or* the undersigned and described inhabitant householders, sanitary inspector, *or other officer (describing him)*], do hereby give you notice, that there exists in or upon the [dwelling-house, yard, *&c., as the case may be*], situate at [*giving such description as may be sufficient to identify the premises*], in the parish of in your district, under the Nuisances Removal Act, 1855, the following nuisance, videlicet, [*describing the nuisance, as the case may be; for instance*, a dwelling-house or building a nuisance or injurious to health for want of a privy *or* drain *or* sufficient means of ventilation, *or* so dilapidated *or* so filthy as to be a nuisance or injurious to health, *or, for further instance*, a ditch *or* drain so foul as to be a nuisance or injurious to health, *or* an accumulation of a nuisance or injurious to health, *&c., or* swine so kept as to be a nuisance or injurious to health]; and that such nuisance is caused by [*naming the person by whose act or default the nuisance is caused, or* by some person unknown].

Dated this day of in the year of our Lord one thousand eight hundred and

[*Signed by complainant under section* 10.]

FORM (C.)

*Notice to Owner or occupier of Entry for Examination.*

To the owner [*or* occupier, *as the case may be,*] of [*describe the premises situated at*] [*insert a description sufficient to identify the premises*].

TAKE notice, that, under the Nuisances Removal Act for England, 1855, the [*local authority, naming it,*] in whose district under the said act the above premises are situate, have received a notice from [*name complainant*], stating that in or upon the said premises [*insert the cause of nuisance as set forth in the notice*].

And further take notice, that after the expiration of twenty-four hours from the service of this notice the [*local authority*] will cause the said premises to be entered and examined under the provisions of the said act, and if the cause of nuisance aforesaid be found still existing, or though removed or discontinued, be likely to be repeated, a summons will be issued requiring your attendance to answer a complaint which will be made to the justices for enforcing the removal of the same, and prohibiting a repetition thereof, and for recovering the costs and penalties that may be incurred thereby.

Dated this day of in the year of our Lord one thousand eight hundred and

*A. B.*,

The officer appointed by the [*local authority*] to take proceedings under the Nuisances Removal Act for England, 1855.

FORM (D.)

*Summons.*

To the owner *or* occupier of [*describe premises*] situate at [*insert such a description as may be sufficient to identify the premises*] or to *A. B.* of

County of / Borough of / *or* District of [*or &c. or as the case may be*] to wit.

You are required to appear before two of her Majesty's justices of the peace [*or* one of the magistrates of the police courts of the metropolis, *or* the stipendiary magis-

trate] of the county [*or other jurisdiction*] of at the petty sessions [*or* court] holden at on the day of next, at the hour of in the noon, to answer the complaint this day made to me by [*or* by on behalf of] [*naming the local authority, as the case may be*], that in or upon the premises above mentioned [*or* in or upon certain premises situate at No. in the street in the parish of *or such other description or reference as may be sufficient to identify the premises*], in their district, under the Nuisances Removal Act for England, 1855, the following nuisance exists [*describing it, as the case may be*], and that the said nuisance is caused by the act or default of the occupier [*or* owner] of the said premises, *or* by you *A.B.* [*or in case the nuisance be discontinued, but likely to be repeated, say,* there existed recently, to wit, on or about the day of on the premises, the following nuisance [*describe the nuisance*], and that the said nuisance was caused [*&c.*], and although the same has since the said last-mentioned day been removed or discontinued, there is reasonable ground to consider that the same or the like nuisance is likely to recur on the said premises].

Given under the hand of me, *J.P.*, esquire, one of her Majesty's justices of the peace acting in and for the [*jurisdiction*] stated in the margin, *or* one of the magistrates of the police courts of the metropolis, *or* stipendiary magistrate of this day of in the year of our Lord one thousand eight hundred and .

## FORM (E.)

*Order of Justices for Removal of Nuisances by Owner, &c.*

To the owner [*or* occupier] of [*describe the premises*] situate [*give such description as may be sufficient to identify the premises*], *or* to *A.B.* of *or* to [*giving name of local authority*], or to their servants or agents, and to all whom it may concern.

County of [*or* borough, *&c.* of *or* district of *or as the case may be.*] WHEREAS on the day of complaint was made before , esquire, one of her Majesty's justices of the peace acting in and for the county [*or other jurisdiction*] stated in the margin [*or* before the undersigned, one of the magistrates of the police courts of the metropolis, *or as the case may be*], by [*or* by on behalf of] [*the local authority, naming it, as the case may be*], that in or upon certain premises situate at in the district under the Nuisances Removal Act for England, 1855, of the complainants above named, the following nuisance then existed [*describing it*]; and that the said nuisance was caused by the act or default of the owner [*or* occupier] of the said premises [*or* was caused by *A.B.*] (*If the nuisance have been removed, say,* the following nuisance existed on or about [*the day the nuisance was ascertained to exist*], and that the said nuisance was caused, *&c.*, and although the same is now removed, the same or the like nuisance is likely to recur on the same premises).

And whereas the owner [*or* occupier] within the meaning of the said Nuisances Removal Act, 1855 [*or* the said *A.B.*], hath this day appeared before us justices, being two of her Majesty's justices in and for , sitting in petty sessions at their usual place of meeting [*or* before me, the said magistrate of the police courts of the metropolis, *or as the case may be*], to answer the matter of the said complaint: [*Or in case the party charged do not appear, say,* And whereas it hath been this day proved to our [*or* my] satisfaction that a true copy of a summons requiring the owner [*or* occupier] of the said premises [*or* the said *A.B.*] to appear this day before us [*or* me] hath been duly served according to the said act:

Now upon proof here had before us [*or* me] that the nuisance so complained of doth exist on the said premises, and that the same is caused by

18 & 19 Vict. c. 121.

the act or default of the owner [*or* occupier] of the said premises [*or* by the said *A.B.*], we [*or* I], in pursuance of the said act do order the said owner [*or* occupier, *or A.B.*] within [*specify the time*] from the service of this order or a true copy thereof according to the said act [*here specify the works to be done, as, for instance,* to cleanse, whitewash, purify, and disinfect the said dwelling house; *or, for further instance,* to construct a privy *or* drain, *&c.; or, for further instance,* to cleanse *or* to cover *or* to fill up the said cesspool, *&c.*], so that the same shall no longer be a nuisance or injurious to health as aforesaid.

[*And if it appear to the justices that the nuisance is likely to recur on the premises, say*] And we [*or* I] being satisfied that, notwithstanding the said cause or causes of nuisances may be removed under this order, the same is or are likely to recur, do therefore prohibit the said owner [*or* occupier, *or A.B.*], from [*here insert the matter of the prohibition, as, for instance,* from using the said house or building for human habitation until the same, in our judgment, is rendered fit for that purpose].

And if the above order for abatement be not complied with [*or* if the above order of prohibition be infringed], then we [*or* I] do authorise and require you the said [*local authority, naming it*], from time to time to enter upon the said premises, and to do all such works, matters, and things, as may be necessary for carrying this order into full execution according to the act aforesaid.

*In case the nuisance were removed before complaint, say,* [Now, upon proof here had before us that at or recently before the time of making the said complaint, to wit, on as aforesaid, the cause of nuisance complained of did exist on the said premises, but that the same hath since been removed, yet, notwithstanding such removal, we [*or* I] being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [*order of prohibition*]: and if this order of prohibition be infringed, then we [*or* I] [*order on local authority to do works*].

Given under the hands and seals of us, two of her Majesty's justices of the peace in and for [*or* the hand and seal of me, one of the magistrates of the police courts of the metropolis, *or as the case may be*], this day of in the year of our Lord one thousand eight hundred and .

## FORM (F.)

*Order of Justices for Removal of Nuisance by Local Authority.*

To the Town Council, *&c., as the case may be.*

County, *&c.*, to wit. } WHEREAS [*recite complaint of nuisance as in last form*].

And whereas it hath been now proved to our [*or* my] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person causing the nuisance, is known *or* can be found [*as the case may be*]: Now we [*or* I], in pursuance of the said act, do order the said [*local authority, naming it*], forthwith to [*here specify the works to be done*].

Given, *&c.*

## FORM (G.)

*Order to permit Execution of Works by Owners.*

County of [*or* borough of *or* metropolitan police district, *or as the case may be*], to wit. } WHEREAS complaint hath been made to me, *E.F.*, esquire, one of her Majesty's justices of the peace in and for the county [*or* borough, *&c.*] of [*or* one of the magistrates of the police courts of the metropolis, *or as the case may be*, or one of her Majesty's justices of the peace, *as the case may be*, of the county of ], by *A.B.*, owner within the meaning of the "Nuisances Removal Act for England, 1855," of certain premises, to wit, a dwelling

ouse [*or* building, *or as the case may be*], situate at [*insert such a description of the premises as may be sufficient to identify them*], in the parish of in the said county [*or* borough, *&c.*], that *C.D.*, the occupier of he said premises, doth prevent the said *A.B.* from obeying and carrying nto effect the provisions of the said act, in this, to wit, that he the said *C.D.* [*here describe the act of prevention generally according to the circumtances; for instance thus*, doth refuse to quit the said house, the same aving by the order of justices been declared unfit for human habitation, r doth prevent the said *A.B.* from cleansing *or* whitewashing *or* purifying he said dwelling house, *or* erecting a privy *or* drain, *or* breaking an aperure for ventilation, *or* cleansing a drain, ditch, gutter, watercourse, privy, urinal, cesspool, *or* ashpit which is a nuisance or injurious to health]: And whereas the said *C.D.* has been summoned to answer the said complaint, and has not shown sufficient cause against the same, and it appears to me that [*describe the act or works to be done*] is necessary for the purpose of enabling the said *A.B.* to obey and carry into effect the provisions of the said act, I do hereby order that the said *C.D.* do permit the said *A.B.* [*describe the act or works to be done*] in the manner required by the said act.

Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and .

*E.F.* (L.S.)

## FORM (H.)

*Summons for Nonpayment of Costs, Expenses, or Penalties.* Sec. 20.

To [*describe the person from whom the costs, expenses, and penalties are due*].

County of / *or* borough of / *or* district of / to wit. } You are required to appear before two of her Majesty's justices of the peace [*or* one of the magistrates of the police courts of the metropolis, *or* the stipendiary magistrates] of the county [*or other jurisdiction*] of at the petty sessions [*or* court] holden at on the day of next, at the hour of in the noon, to answer the complaint this day made to me by [*or* by on behalf of] [*naming the local authority*], that the sum of pounds, being costs and expenses incurred by you under and in relation to a certain complaint touching [*describe the nuisance*], and an order of [*describe the person making the order*] duly made in pursuance of the Nuisances Removal Act for England, 1855, [*if penalties are due, add*, and also the sum of being the amount of penalties payable by you for disobedience of the said order], remains unpaid and due from you.

Given under the hand of me, *J.P.*, esquire, one of her Majesty's justices of the peace acting in and for the [*jurisdiction stated in the margin*] [*or* one of the magistrates of the police courts of the metropolis, *or* stipendiary magistrate of ] the day of in the year of our Lord one thousand eight hundred and

## FORM (I.)

*Order for Payment of Costs, Expenses, and Penalties.* Sec. 20.

To [*name the person on whom the order is made*].

County, *&c.*, / to wit. } WHEREAS complaint has been made before us [*or* me] for that [*recite cause of complaint.*]

And whereas the said [*naming the person against whom the complaint is made*] has this day appeared before us the said justices [*or* before me the said magistrate of the police courts of the metropolis, *or as the case may be*], to answer this matter of the said complaint, [*Or, in case the party charged do not appear, say*]:

And whereas it has been this day satisfactorily proved to us [*or* me] that a true copy of the summons requiring the said [*naming person charged*]

18 & 19 Vict. c. 121.

to appear before us [*or* me] this day hath been duly served according to the said act: Now, having heard the matter of the said complaint, we [*or* I] do adjudge the said [*naming the person charged*] to pay forthwith [*or* by instalments of payable respectively on or before the ] to the said [*naming the person or local authority to whom the costs adjudged are payable*], the sum of for costs in this behalf, and to [*naming the person or authority to whom the expenses are payable*] the sum of for expenses in this behalf [*if penalties are due, add*, and the sum of for penalties incurred in relation to the premises], together with the sum of being the charges attending the application for this order and proceedings thereon; and if the said several sums, amounting in the whole to [*or* if any one of the said instalments] be not paid within fourteen days after the same is due as aforesaid, we [*or* I] hereby order that the same be levied by distress and sale of the goods and chattels of the said , and in default of sufficient distress in that behalf adjudge the said to be imprisoned in the common gaol [*or* house of correction, *as the case may be*], at in the said county [*or as the case may be*], for the space of such time, not exceeding three calendar months, as the justices may think fit, unless the said several sums [*or* sum], and all costs and charges of the said distress [and of the commitment and carrying of the said to the said house of correction *or* common gaol, *or as the case may be*], shall be sooner paid.

Given under our [*or* my] hands, this day of in the year of our Lord one thousand eight hundred and at in the [county, *or as the case may be*], aforesaid.

## FORM (K.)

*Warrant of Distress.* Sec. 20.

To the constable of and to all other peace officers in the said county [*or as the case may be*].

WHEREAS on last past complaint was made before the undersigned, two of her Majesty's justices of the peace in and for the said county of [*or as the case may be*] [*or* a magistrate of the police courts of the metropolis, *or* stipendiary magistrate, *as the case may be*] for that [*&c. as in the order*]; and thereupon having considered the matter of the said complaint, we [*or* I] adjudged the said [*set out from Form I. the adjudication of payment, and the order for distress and for imprisonment in default of distress*]: And whereas the time in and by the said order appointed for the payment of the said several sums of and hath elapsed, but the said hath not paid the same or any part thereof within fourteen days after the date fixed by the order for such payment, but therein hath made default: These are therefore to command you in her Majesty's name forthwith to make distress of the goods and chattels of the said *A.B.*; and if within the space of days after the making of such distress the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale over to the clerk of the justices of the peace for the division of in the said [county, *or as the case may be*], that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said ; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under our [*or* my] hands and seals, this day of in the year of our Lord one thousand eight hundred and at in the [county] aforesaid.

(L.S.) *A.B.*
*C.D.*

18 & 19 Vict. c. 121.

FORM (L.)

*Return of Proceedings under Nuisances Removal Act, 1855, by the* [name the local authority at length].

*From 25th March 1855 to 25th March 1856.*

| Date of Notice. | By whom given. | Nature of Nuisance. | Proceedings taken. | Remarks:—With any special Work done under the Acts, without any Notice. |
|---|---|---|---|---|
| 16 April | The inspector | Foul drainage from house. | Owner put down good drain, on summons, without justices' order. | Several houses being in a like position, the highway surveyor laid down a sewer in the old watercourse, and each house was charged a proportionate sum for the same, of which the highest sum was 10*s*. |
| 18 April | Two neighbours. | Offensive cesspool. | Abated by local authority. | Renewed once; but penalty recovered, and no subsequent renewal attempted. |

Dated this 26th day of March 1856. [*To be signed by the chairman of the local authority.*]

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## 18 & 19 Vict. c. 132.

*An Act for facilitating the Erection of Dwelling Houses for the Labouring Classes* (*a*). [14th August, 1855.]

18 & 19 Vict. c. 132.

Whereas it is expedient that facilities should be afforded for the erection of healthful and commodious dwellings for the labouring classes: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

I. This act may for all purposes be cited as "The Labourers' Dwellings Act, 1855."

*Constitution of company.*

II. Any number of persons not less than six may, by subscribing articles of association or a schedule thereto, form themselves into a company for the purposes hereinafter mentioned: the articles shall be in the form set forth in the schedule hereto, or as near thereto as circumstances permit: there shall be set opposite to the name of each subscriber the sum subscribed for by him in the capital of the company, and his subscription shall be deemed to imply a covenant on the part of himself, his heirs, executors, and administrators, to pay to the company the amount so subscribed for.

Power to form company.

Registration of articles.

III. The articles shall be registered by the registrar of joint stock companies, who shall charge in respect of such registration such fees as may from time to time be directed by the lords of the committee of privy council appointed for the consideration of matters relating to trade and plantations, hereinafter called the board of trade; and upon such registration being made the subscribers, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name prescribed in the articles of association, having a perpetual succession and a common seal; but no such registration shall be

(*a*) See "Labourers' Dwellings Act," p. 86.

such subscribed capital; but no mortgagee shall have power to eject any tenant before the expiration of his tenancy; and in no other case shall the company have power to borrow money. 18 & 19 Vic. c. 132.

X. The following rules shall be observed with respect to demises and letting made by the company: Rules as to demises by the company.

(1.) The dwellings provided by the company, with the private gardens (if any) appurtenant thereto, shall be divided into such parcels as may be conveniently held in distinct occupations:

(2.) The parcels shall be numbered in arithmetical progression, beginning with the figure one, each parcel being distinguished by a separate number:

(3.) The interests of the lessees, other than monthly or weekly tenants, in the property of the company, shall be deemed to be shares in a capital consisting of the dwelling houses of the company, with their appurtenances; and in all cases where such interests are not restricted to the original lessee, the transfer or transmission of such interests shall take place in manner in which the transfer or transmission of shares takes place in pursuance of the said Companies Clauses Consolidation Act, 1845, or as near thereto as circumstances admit; and the clauses of such last-mentioned act with respect to the transfer or transmission of shares shall, with the necessary alterations, be held to apply to the transfer or transmission of the interests of any such lessees as aforesaid.

XI. The company may purchase the interest of any registered lessee, and upon such purchase being made such interest shall be deemed to be extinguished, and the company may demise the premises so purchased in the same manner as if no previous lease thereof had ever before been made. Power to company to purchase interests of lessees.

XII. If any funds of the company are advanced to any person by way of loan, or are with a view of gaining profit appropriated to any purpose other than the purpose for which the company is hereby declared to be established, every director of the company shall, in addition to any other liabilities he may be under to replace such funds, be liable, at the suit of any shareholder or other person, whether implicated or not in such loan or misappropriation, to pay to such shareholder or other person, to be applied by him to his own use, in respect of each such advance or misappropriation, a sum by way of penalty not greater in amount than the sum so advanced or misappropriated, and not less than half such sum. Penalty on misappropriation of funds.

XIII. If any dwelling belonging to the company is insufficiently drained or ventilated, or insufficiently supplied with water or necessary conveniences, or is in a bad state of repair, the general board of health may, by order left at any office of the company, or served on any director of the company, require the company, within a reasonable time, to be specified in such order, sufficiently to drain, ventilate, and supply with water and necessary conveniences, or put in a good state of repair, such dwelling; and if default is made in compliance with the requisitions of such notice, the company shall incur a penalty not exceeding five pounds for every day during which such default continues; and it shall be lawful for any justices by whom such penalty is imposed, if they think fit, to order the whole or any part thereof to be laid out in executing the works in respect of which the penalty is incurred: and in addition to the above remedy the said general board may themselves do the works required by such notice, and recover from the company in a summary manner the expenses of so doing the same; but any order made by the general board in pursuance of this section may be appealed against, and, on application by motion, be set aside or otherwise modified by any of her Majesty's superior courts of law at Westminster. Penalty in case dwellings are not sufficiently drained, &c.

XIV. If any person obstructs any inspector of the general board of health in the inspection of any dwelling belonging to the company, he shall for each offence incur a penalty not exceeding five pounds. Penalty on obstructing inspector.

18 & 19 Vict. c. 132. *Miscellaneous.*

XV. The provisions of the Lands Clauses Consolidation Act, 1845, with reference to the purchase of lands by agreement (*a*), shall be incorporated with this act, and shall apply to the purchase of land by the company in pursuance of this act.

Certain provisions of 8 & 9 Vict. c. 18, incorporated with this act.

Recovery of penalties.

XVI. All penalties imposed by this act, or by any byelaws made in pursuance of this act or of any act incorporated herewith, and all sums of money hereby directed to be recovered in a summary manner, may be recovered in a summary manner before two justices, as directed by an act passed in the eleventh and twelfth years of the reign of her present Majesty Queen Victoria, chapter forty-three, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders" (*b*).

Extent of act.

XVII. This act shall not extend to Scotland.

## SCHEDULE.

*Articles of Association of the* ——— *Company.*

1. The name of the company shall be the ——— company.

Sect. 6. 2. The capital of the company shall be ——— pounds divided into shares of ——— pounds each.

Sect. 66. 3. The first ordinary meeting of the company shall be held ——— days after the date of the incorporation of the company.

Sect. 82. 4. The number of directors shall be ——— ; but the company may reduce such number to any number not less than ——— and may increase it to any number not exceeding ———.

Sect. 83. * *Insert names of directors.* 5. The first directors of the company shall be the following persons; that is to say*,

N.B.—The references in the margin refer to the sections of the Companies Clauses Consolidation Act, 1845.

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## 19 & 20 Vict. c. 107.

19 & 20 Vict. c. 107.

*An Act to amend the Smoke Nuisance Abatement (Metropolis) Act*, 1853 (*c*). [29th July, 1856.]

16 & 17 Vict. c. 128.

Whereas by an act passed in the seventeenth year of the reign of her present Majesty, intituled "An Act to abate the Nuisance arising from the Smoke of Furnaces in the Metropolis, and from Steam Vessels above London Bridge," it was enacted, that nothing in that act contained shall extend or apply to any glass works or pottery works existing within the metropolis before the passing of the said act, and it is expedient that the said provision be repealed, and the said act be amended: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Exemption of certain glass and pottery works from operation of recited act repealed.

I. From and after the first day of January one thousand eight hundred and fifty-eight, the above-mentioned provision whereby certain furnaces in glass works and pottery works were exempted from the operation of the said act shall be repealed; and all steam vessels plying to and fro between London Bridge and any place on the river Thames to the westward of the Nore light shall be subject to the provisions of the said recited act relating to steam vessels above London Bridge.

Steam vessels plying between London and the Nore Light subject to provisions of recited act.

(*a*) See note, p. 118. (*b*) See note, p. 55.
(*c*) See "Prevention of Smoke," p. 62, and 16 & 17 Vict. c. 128, p. 338.

19 & 20 Vict. c. 107.

II. And whereas it is expedient that furnaces employed in public baths and wash-houses should be included within the provisions of the said recited act: be it enacted, that from and after the said first day of January one thousand eight hundred and fifty-eight every furnace employed or to be employed in any such public baths and wash-houses in the metropolis, although the same shall not be used for the purposes of trade or manufacture, shall be and the same is hereby included in and made liable to all the provisions of the said recited act.

Provisions of recited act extended to furnaces used in public baths and wash-houses.

III. And whereas in the said act, sixteen and seventeen Victoria, chapter one hundred and twenty-eight, it was provided, that other nuisances besides smoke should be proceeded against at the instigation of one of her Majesty's principal secretaries of state: and whereas by the subsequent acts, eighteen and nineteen Victoria, chapter one hundred and twenty and chapter one hundred and twenty-one (*a*), the local authorities are entitled to originate proceedings for the abatement of such nuisances: be it hereby enacted, that no proceeding shall be taken under the said act, sixteenth and seventeenth Victoria, chapter one hundred and twenty-eight (*b*), against other nuisances besides smoke, unless it shall at any time appear to the secretary of state that the local authorities fail to proceed actively and impartially in noticing and suppressing such nuisances.

No proceedings to be taken by secretary of state under 16 & 17 Vict. c. 128, unless local authorities fail to proceed under 18 & 19 Vict. c. 121.

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## 19 & 20 Vict. c. 112.

19 & 20 Vict. c. 112.

*An Act to amend the Act of the last Session of Parliament, chapter one hundred and twenty, for the better Local Management of the Metropolis.* [29th July, 1856.]

18 & 19 Vict. c. 120(*c*).

Whereas it is expedient to amend the act of the last session of parliament, chapter one hundred and twenty, "for the better local management of the metropolis," as hereinafter mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Church rates where made in open vestry before passing of the act 18 & 19 Vict. c. 120, to continue to be so made.

I. Where at the time of the passing of the said act the power of making church rates or rates of the nature of church rates in any parish was vested in any open vestry, or in any meeting in the nature of an open vestry meeting, or in any meeting of the parishioners, inhabitants, or ratepayers generally, or of such of the parishioners, inhabitants, or ratepayers as were rated at or above any specified amount or value (whether such vestry or meeting were holden for the parish at large or for any liberty or other district therein), such power shall not be deemed to have become vested in the vestry constituted in such parish under the said act, but shall be exercised as if the said act had not been passed: provided always, that this act shall not affect any such rate made before the passing thereof by any such vestry as last aforesaid.

Nothing in this act or in 18 & 19 Vict. c. 120, to affect ecclesiastical districts.

II. Nothing in the said act or this act shall affect or be deemed to have affected any power of electing or appointing churchwardens or making church rates, or other power which, at the time of the passing of the said act, was vested in any such open vestry or meeting as aforesaid, or any elected or other vestry, where such vestry or meeting acts exclusively for any district (by whatever denomination distinguished) created for ecclesiastical purposes only.

(*a*) See 18 & 19 Vict. c. 121, p. 419.
(*b*) See 16 & 17 Vict. c. 128, p. 338.
(*c*) See 18 & 19 Vict. c. 120, p. 343.

19 & 20 Vict. c. 112.

Other powers of vestries and like meetings declared to have been transferred to vestries under act 18 & 19 Vict. c. 120, except powers transferred to district boards.

III. Save as hereinbefore otherwise provided, all the duties, powers, and privileges (including such as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor (*a*)), which might have been performed or exercised by any open or elected or other vestry or any such meeting as aforesaid in any parish, under any local act or otherwise, at the time of the passing of the said act of the last session, shall be deemed to have become transferred to and vested in the vestry constituted by such last-mentioned act; except so far as any such duties, powers, or privileges may in the case of a parish included in any district mentioned in schedule (B.) to the said act be vested by section ninety thereof in the board of works of such district (*b*): provided that all duties and powers relating to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, which at the time of the passing of the said act were vested in or might be exercised by any guardians, governors, trustees, or commissioners, or any body, other than any open or elected or other vestry, or any such meeting as hereinbefore mentioned, shall continue vested in and be exercised by such guardians, governors, trustees, or commissioners or other body as aforesaid.

Occupiers may claim to be rated.

IV. It shall be lawful for any person occupying any tenement within any parish to claim to be rated to the relief of the poor in respect thereof in the rate for the time being, and in all rates to be thereafter made in respect of such tenement, whether the landlord be or be not liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, by notice in writing left at the office or place of residence of the overseers of the poor of the parish, or one of them, and actually paying or tendering at such office or place of residence the full amount of the last made rate then payable in respect of such premises, such overseers are hereby required to put the name of such occupier on the rate for the time being, and also, without further claim, to put his name upon every subsequent rate made during the time such occupier continues in the occupation of the same premises; and in case the said overseers neglect or refuse so to do, such occupier shall nevertheless, for the purposes of the said act, be deemed to have been rated to the said rate in respect of such premises from the period at which the rate for the time being in respect of which he so claimed to be rated as aforesaid was made, and thenceforth so long as he continues in the occupation of the same premises: provided always, that every person so claiming as aforesaid shall in respect of every rate for the relief of the poor made after such claim as aforesaid, while he continues to occupy the same premises, be liable to the same extent and in the same manner as if his name had been put on such rate.

Compositions not to be disturbed, and landlord's liability not to be affected.

V. Provided also, that in cases where, by any composition with the landlord, a less sum is payable than the full amount of rate which, except for such composition, would be due in respect of the same premises, the occupier claiming to be rated shall not be bound to pay or tender more than the amount then payable under such composition: provided also, that where, by virtue of any act of parliament, the landlord is liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord; but in case the tenant who has been rated for such premises in consequence of any such claim as aforesaid

(*a*) Not, however, the right of presentation to an advowson vested in trustees for the parishioners and inhabitants (*Carter* v. *Cropley*, 26 L. J., Ch. 246); nor the election of almspeople vested "in the minister, churchwardens, &c., and such of the parishioners as should pay taxations to the poor" (*Atty.-Gen.* v. *Drapers' Co.*, 4 Drew. 299; 27 L. J., Ch. 542).

(*b*) See 18 & 19 Vict. c. 120, proviso to s. 197 (p. 394), which is not repealed by this act (*R.* v. *St. Pancras Directors*, E. B. & E. 583; 5 Jur., N.S., 120).

ıake default in the payment of the rate for the relief of the poor payable ı respect thereof, such landlord shall be and remain liable for the pay- ıent thereof, in the same manner as if he alone had been rated in respect f the premises so occupied by his tenant.

Right of occupier so claiming to vote in elections.

VI. Any occupier who under this act is rated or deemed to be rated to ıe relief of the poor in any parish, and has been so rated or deemed to be ıted for one year next before any election of vestrymen or auditors under ıe said act, shall be entitled to vote in such election, and shall for the ırposes of the said act be deemed a ratepayer of such parish, and be ıtitled to act as such, provided all parochial rates, taxes, and assess- ıents, save and except church rates, due in respect of the same premises ; the time of his so voting or acting, except such as have been made or ɔcome due within six months immediately preceding such voting or acting, ıve been paid ; but such occupier shall not be deemed to be a ratepayer ı as to gain a settlement where he would not have gained a settlement if ıis act had not been passed.

Payment of church rates not necessary as a qualification.

VII. The provision in section sixteen of the said act requiring all ırochial rates, taxes, and assessments (except as therein excepted) to ıve been paid shall not be taken to include church rates.

Rental to be determined by column headed "rateable value."

VIII. And whereas by the act of the session holden in the sixth and venth years of King William the Fourth, chapter ninety-six, "to regulate ırochial assessments," it is required that every rate for the relief of the ɔor shall, in addition to any other particular which the form of making ıt such rate shall require to be set forth, contain an account of every ırticular set forth at the head of the respective columns in the form given the schedule to that act annexed, so far as the same can be ascertained, ıd in the form in the said schedule are two columns headed respectively gross estimated rental" and "rateable value :" and whereas by the id act of the last session it is required that in order to qualify a person be elected a vestryman or auditor he should be rated to the relief of the ɔor upon a rental of such amount as therein mentioned : and whereas ɔubts are entertained which of the amounts specified in the said two lumns is to be deemed the "rental" for the purposes of the last men- ɔned act :

The amount specified in the said column headed "rateable value" shall be deemed the "rental" for the purposes of the last-mentioned act.

Regulation of meetings of vestries constituted by 18 & 19 Vict. c. 120.

IX. Every meeting of any vestry constituted by the said act of the last ssion, of which and of the special purpose whereof notice is now by law quired to be affixed on or near the principal doors of the churches and ıapels within the parish, may be convened by transmitting through the ıst or otherwise notice, signed by the clerk to the vestry, to each vestry- an, at his usual or last known place of abode in England, of the place ıd hour of holding the same, and the special purposes thereof, three ıys before the day appointed for such meeting, and also by affixing at the ıme time notice thereof on or near the door of any building where the id meeting is to be holden, and it shall not be necessary that notice of ıy such meeting shall be further or otherwise signed or published.

Section 144 of 18 & 19 Vict. c. 120, declared to extend to authorise applications to parliament for providing parks, &c.

X. And whereas doubts are entertained whether the provision in section ıe hundred and forty-four of the said act of the last session (*a*), author- ing the metropolitan board of works, where it appears to them that rther powers are required for the purpose of any work for the improve- ent of the metropolis or public benefit of the inhabitants thereof, to ake applications to parliament for that purpose, and providing that the ɔenses of such application may be defrayed as other expenses of the said ıard, extends to authorise applications to parliament by such board for ɔwers for providing parks, pleasure grounds, places of recreation, and ɔen spaces, and it is expedient to remove such doubts : the powers given

(*a*) See 18 & 19 Vict. c. 120, s. 144, p. 378.

18 & 19 Vict. c. 121.

the act or default of the owner [*or* occupier] of the said premises [*or* by the said *A.B.*], we [*or* I], in pursuance of the said act do order the said owner [*or* occupier, *or A.B.*] within [*specify the time*] from the service of this order or a true copy thereof according to the said act [*here specify the works to be done, as, for instance*, to cleanse, whitewash, purify, and disinfect the said dwelling house; *or, for further instance*, to construct a privy or drain, *&c.; or, for further instance*, to cleanse or to cover or to fill up the said cesspool, *&c.*], so that the same shall no longer be a nuisance or injurious to health as aforesaid.

[*And if it appear to the justices that the nuisance is likely to recur on the premises, say*] And we [*or* I] being satisfied that, notwithstanding the said cause or causes of nuisances may be removed under this order, the same is or are likely to recur, do therefore prohibit the said owner [*or* occupier, *or A.B.*], from [*here insert the matter of the prohibition, as, for instance*, from using the said house or building for human habitation until the same, in our judgment, is rendered fit for that purpose].

And if the above order for abatement be not complied with [*or* if the above order of prohibition be infringed], then we [*or* I] do authorise and require you the said [*local authority, naming it*], from time to time to enter upon the said premises, and to do all such works, matters, and things, as may be necessary for carrying this order into full execution according to the act aforesaid.

*In case the nuisance were removed before complaint, say*, [Now, upon proof here had before us that at or recently before the time of making the said complaint, to wit, on as aforesaid, the cause of nuisance complained of did exist on the said premises, but that the same hath since been removed, yet, notwithstanding such removal, we [*or* I] being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [*order of prohibition*]: and if this order of prohibition be infringed, then we [*or* I] [*order on local authority to do works*].

Given under the hands and seals of us, two of her Majesty's justices of the peace in and for [*or* the hand and seal of me, one of the magistrates of the police courts of the metropolis, *or as the case may be*], this day of in the year of our Lord one thousand eight hundred and .

## FORM (F.)

### *Order of Justices for Removal of Nuisance by Local Authority.*

To the Town Council, *&c., as the case may be.*

County, *&c.*, to wit. } WHEREAS [*recite complaint of nuisance as in last form*].

And whereas it hath been now proved to our [*or* my] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person causing the nuisance, is known or can be found [*as the case may be*]: Now we [*or* I], in pursuance of the said act, do order the said [*local authority, naming it*], forthwith to [*here specify the works to be done*].

Given, *&c.*

## FORM (G.)

### *Order to permit Execution of Works by Owners.*

County of [*or* borough of *or* metropolitan police district, *or as the case may be*], to wit. } WHEREAS complaint hath been made to me, *E.F.*, esquire, one of her Majesty's justices of the peace in and for the county [*or* borough, *&c.*] of [*or* one of the magistrates of the police courts of the metropolis, *or as the case may be*, or one of her Majesty's justices of the peace, *as the case may be*, of the county of ], by *A.B.*, owner within the meaning of the "Nuisances Removal Act for England, 1855," of certain premises, to wit, a dwelling

house [*or* building, *or as the case may be*], situate at [*insert such a description of the premises as may be sufficient to identify them*], in the parish of in the said county [*or* borough, *&c.*], that *C.D.*, the occupier of the said premises, doth prevent the said *A.B.* from obeying and carrying into effect the provisions of the said act, in this, to wit, that he the said *C.D.* [*here describe the act of prevention generally according to the circumstances; for instance thus,* doth refuse to quit the said house, the same having by the order of justices been declared unfit for human habitation, *or* doth prevent the said *A.B.* from cleansing *or* whitewashing *or* purifying the said dwelling house, *or* erecting a privy *or* drain, *or* breaking an aperture for ventilation, *or* cleansing a drain, ditch, gutter, watercourse, privy, urinal, cesspool, *or* ashpit which is a nuisance or injurious to health]: And whereas the said *C.D.* has been summoned to answer the said complaint, and has not shown sufficient cause against the same, and it appears to me that [*describe the act or works to be done*] is necessary for the purpose of enabling the said *A.B.* to obey and carry into effect the provisions of the said act, I do hereby order that the said *C.D.* do permit the said *A.B.* [*describe the act or works to be done*] in the manner required by the said act.

Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and .

*E.F.* (L.S.)

## FORM (H.)

*Summons for Nonpayment of Costs, Expenses, or Penalties.* Sec. 20.

To [*describe the person from whom the costs, expenses, and penalties are due*].

County of / or borough of / or district of / to wit. } You are required to appear before two of her Majesty's justices of the peace [*or* one of the magistrates of the police courts of the metropolis, *or* the stipendiary magistrates] of the county [*or other jurisdiction*] of at the petty sessions [*or* court] holden at on the day of next, at the hour of in the noon, to answer the complaint this day made to me by [*or* by on behalf of] [*naming the local authority*], that the sum of pounds, being costs and expenses incurred by you under and in relation to a certain complaint touching [*describe the nuisance*], and an order of [*describe the person making the order*] duly made in pursuance of the Nuisances Removal Act for England, 1855, [*if penalties are due, add,* and also the sum of being the amount of penalties payable by you for disobedience of the said order], remains unpaid and due from you.

Given under the hand of me, *J.P.*, esquire, one of her Majesty's justices of the peace acting in and for the [*jurisdiction stated in the margin*] [*or* one of the magistrates of the police courts of the metropolis, *or* stipendiary magistrate of ] the day of in the year of our Lord one thousand eight hundred and

## FORM (I.)

*Order for Payment of Costs, Expenses, and Penalties.* Sec. 20.

To [*name the person on whom the order is made*].

County, *&c.*, / to wit. } WHEREAS complaint has been made before us [*or* me] for that [*recite cause of complaint.*]

And whereas the said [*naming the person against whom the complaint is made*] has this day appeared before us the said justices [*or* before me the said magistrate of the police courts of the metropolis, *or as the case may be*], to answer this matter of the said complaint, [*Or, in case the party charged do not appear, say*]:

And whereas it has been this day satisfactorily proved to us [*or* me] that a true copy of the summons requiring the said [*naming person charged*]

18 & 19 Vict. c. 121.

to appear before us [*or* me] this day hath been duly served according to the said act: Now, having heard the matter of the said complaint, we [*or* I] do adjudge the said [*naming the person charged*] to pay forthwith [*or* by instalments of payable respectively on or before the ] to the said [*naming the person or local authority to whom the costs adjudged are payable*], the sum of for costs in this behalf, and to [*naming the person or authority to whom the expenses are payable*] the sum of for expenses in this behalf [*if penalties are due, add*, and the sum of for penalties incurred in relation to the premises], together with the sum of being the charges attending the application for this order and proceedings thereon; and if the said several sums, amounting in the whole to [*or* if any one of the said instalments] be not paid within fourteen days after the same is due as aforesaid, we [*or* I] hereby order that the same be levied by distress and sale of the goods and chattels of the said , and in default of sufficient distress in that behalf adjudge the said to be imprisoned in the common gaol [*or* house of correction, *as the case may be*], at in the said county [*or as the case may be*], for the space of such time, not exceeding three calendar months, as the justices may think fit, unless the said several sums [*or* sum], and all costs and charges of the said distress [and of the commitment and carrying of the said to the said house of correction *or* common gaol, *or as the case may be*], shall be sooner paid.

Given under our [*or* my] hands, this day of in the year of our Lord one thousand eight hundred and at in the [county, *or as the case may be*], aforesaid.

## FORM (K.)

*Warrant of Distress.* Sec. 20.

To the constable of and to all other peace officers in the said county [*or as the case may be*].

WHEREAS on last past complaint was made before the undersigned, two of her Majesty's justices of the peace in and for the said county of [*or as the case may be*] [*or* a magistrate of the police courts of the metropolis, *or* stipendiary magistrate, *as the case may be*] for that [*&c. as in the order*]; and thereupon having considered the matter of the said complaint, we [*or* I] adjudged the said [*set out from Form I. the adjudication of payment, and the order for distress and for imprisonment in default of distress*]: And whereas the time in and by the said order appointed for the payment of the said several sums of and hath elapsed, but the said hath not paid the same or any part thereof within fourteen days after the date fixed by the order for such payment, but therein hath made default: These are therefore to command you in her Majesty's name forthwith to make distress of the goods and chattels of the said *A.B.*; and if within the space of days after the making of such distress the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale over to the clerk of the justices of the peace for the division of in the said [county, *or as the case may be*], that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said ; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under our [*or* my] hands and seals, this day of in the year of our Lord one thousand eight hundred and at in the [county] aforesaid.

(L.S.) *A.B.*
*C.D.*

18 & 19 Vict. c. 121.

FORM (L.)

*Return of Proceedings under Nuisances Removal Act, 1855, by the* [name the local authority at length].

*From 25th March 1855 to 25th March 1856.*

| Date of Notice. | By whom given. | Nature of Nuisance. | Proceedings taken. | Remarks:—With any special Work done under the Acts, without any Notice. |
|---|---|---|---|---|
| 16 April | The inspector | Foul drainage from house. | Owner put down good drain, on summons, without justices' order. | Several houses being in a like position, the highway surveyor laid down a sewer in the old watercourse, and each house was charged a proportionate sum for the same, of which the highest sum was 10*s*. |
| 18 April | Two neighbours. | Offensive cesspool. | Abated by local authority. | Renewed once; but penalty recovered, and no subsequent renewal attempted. |

Dated this 26th day of March 1856. [*To be signed by the chairman of the local authority.*]

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## 18 & 19 Vict. c. 132.

*An Act for facilitating the Erection of Dwelling Houses for the Labouring Classes* (*a*). [14th August, 1855.]

18 & 19 Vict. c. 132.

Whereas it is expedient that facilities should be afforded for the erection of healthful and commodious dwellings for the labouring classes: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

I. This act may for all purposes be cited as "The Labourers' Dwellings Act, 1855."

*Constitution of company.*

II. Any number of persons not less than six may, by subscribing articles of association or a schedule thereto, form themselves into a company for the purposes hereinafter mentioned: the articles shall be in the form set forth in the schedule hereto, or as near thereto as circumstances permit: there shall be set opposite to the name of each subscriber the sum subscribed for by him in the capital of the company, and his subscription shall be deemed to imply a covenant on the part of himself, his heirs, executors, and administrators, to pay to the company the amount so subscribed for.

Power to form company.

Registration of articles.

III. The articles shall be registered by the registrar of joint stock companies, who shall charge in respect of such registration such fees as may from time to time be directed by the lords of the committee of privy council appointed for the consideration of matters relating to trade and plantations, hereinafter called the board of trade; and upon such registration being made the subscribers, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name prescribed in the articles of association, having a perpetual succession and a common seal; but no such registration shall be

(*a*) See "Labourers' Dwellings Act," p. 86.

18 & 19 Vict. c. 132.

made until it is proved to the satisfaction of the said registrar that three-fourths of the proposed capital has been subscribed for, and that ten per centum upon such capital has been paid up.

Certificate of incorporation.

IV. The said registrar shall grant a certificate stating the date of the incorporation of the company, and such certificate shall in all cases be *prima facie* evidence of the fact of such incorporation.

8 & 9 Vict. c. 16, incorporated with this act.

V. The Companies Clauses Consolidation Act, 1845 (*a*), shall be incorporated into and form part of this act, with the exception of the provisions relating to the recovery of damages, and to the provision to be made for affording access to the special act; and in the construction of the said companies clauses act the articles of association shall be deemed to be the special act, and the date of the incorporation of the company, as certified in manner aforesaid, shall be deemed to be "the time of the passing of the special act;" and whenever the term "prescribed" is used in this or in the said incorporated act, it shall mean "prescribed by the articles of association."

*Rights and obligations of company*

Purpose of company.

VI. Every company incorporated under this act, and hereinafter referred to as "the company," shall be established for the purpose of providing dwellings for the labouring classes, with or without private gardens, or with or without common gardens or places of common recreation for the use of the inmates of such dwellings, and for no other purpose whatever; and for the above purpose the company shall have power to accept grants and leases of and to purchase and hold land, to erect thereon dwellings for the labouring classes, and to let such dwellings to lodgers by the week or month, or to demise the same to lessees for any estate or interest not greater than a term of twenty-one years, upon such terms of remuneration as they think fit; subject to this proviso, that the company shall not be entitled to hold at any one time more than ten acres of land, except with the licence of the committee of privy council for trade.

Regulations as to dwellings.

VII. The following regulations shall be made respecting any dwellings provided by the company; that is to say,

(1.) All such dwellings shall, as respects drainage, ventilation, supply of water, and necessary conveniences, be constructed and provided in such manner as may be approved by the general board of health, and shall be maintained by the company in good and sufficient repair:

(2.) Any person appointed by the general board of health may at all reasonable times inspect any such dwellings as aforesaid.

Permissive rights of the company.

VIII. The following matters and things may be prescribed by the articles of association, and if so prescribed, but not otherwise, shall be binding; that is to say,

(1.) That the capital of the company may, with the approval of the board of trade, and subject to such condition as they may impose, be increased by the issue of a prescribed number of shares, and of a prescribed amount:

(2.) That no premium is to be taken in respect of any lease granted by the company:

(3.) That the interest granted to any lessee is not to exceed the prescribed term, such term being less than twenty-one years:

(4.) That the interest of a lessee is not to be disposed of without the consent of the directors:

But no power hereby given shall be exercised in such manner as to prejudice any right under any subsisting lease or contract for a lease.

Power to mortgage given in certain cases.

IX. In cases where it is prescribed by the articles of association that the dwellings belonging to the company are to be let only to lodgers by the week or month and not for any greater interval, the company may, as soon as half the subscribed capital is paid up, borrow on the security of their property to the prescribed amount, such amount not to exceed one-third of

(*a*) See note, p. 50.

such subscribed capital; but no mortgagee shall have power to eject any tenant before the expiration of his tenancy; and in no other case shall the company have power to borrow money.

Rules as to demises by the company.

X. The following rules shall be observed with respect to demises and letting made by the company:

(1.) The dwellings provided by the company, with the private gardens (if any) appurtenant thereto, shall be divided into such parcels as may be conveniently held in distinct occupations:

(2.) The parcels shall be numbered in arithmetical progression, beginning with the figure one, each parcel being distinguished by a separate number:

(3.) The interests of the lessees, other than monthly or weekly tenants, in the property of the company, shall be deemed to be shares in a capital consisting of the dwelling houses of the company, with their appurtenances; and in all cases where such interests are not restricted to the original lessee, the transfer or transmission of such interests shall take place in manner in which the transfer or transmission of shares takes place in pursuance of the said Companies Clauses Consolidation Act, 1845, or as near thereto as circumstances admit; and the clauses of such last-mentioned act with respect to the transfer or transmission of shares shall, with the necessary alterations, be held to apply to the transfer or transmission of the interests of any such lessees as aforesaid.

Power to company to purchase interests of lessees.

XI. The company may purchase the interest of any registered lessee, and upon such purchase being made such interest shall be deemed to be extinguished, and the company may demise the premises so purchased in the same manner as if no previous lease thereof had ever before been made.

Penalty on misappropriation of funds.

XII. If any funds of the company are advanced to any person by way of loan, or are with a view of gaining profit appropriated to any purpose other than the purpose for which the company is hereby declared to be established, every director of the company shall, in addition to any other liabilities he may be under to replace such funds, be liable, at the suit of any shareholder or other person, whether implicated or not in such loan or misappropriation, to pay to such shareholder or other person, to be applied by him to his own use, in respect of each such advance or misappropriation, a sum by way of penalty not greater in amount than the sum so advanced or misappropriated, and not less than half such sum.

Penalty in case dwellings are not sufficiently drained, &c

XIII. If any dwelling belonging to the company is insufficiently drained or ventilated, or insufficiently supplied with water or necessary conveniences, or is in a bad state of repair, the general board of health may, by order left at any office of the company, or served on any director of the company, require the company, within a reasonable time, to be specified in such order, sufficiently to drain, ventilate, and supply with water and necessary conveniences, or put in a good state of repair, such dwelling; and if default is made in compliance with the requisitions of such notice, the company shall incur a penalty not exceeding five pounds for every day during which such default continues; and it shall be lawful for any justices by whom such penalty is imposed, if they think fit, to order the whole or any part thereof to be laid out in executing the works in respect of which the penalty is incurred: and in addition to the above remedy the said general board may themselves do the works required by such notice, and recover from the company in a summary manner the expenses of so doing the same; but any order made by the general board in pursuance of this section may be appealed against, and, on application by motion, be set aside or otherwise modified by any of her Majesty's superior courts of law at Westminster.

Penalty on obstructing inspector.

XIV. If any person obstructs any inspector of the general board of health in the inspection of any dwelling belonging to the company, he shall for each offence incur a penalty not exceeding five pounds.

18 & 19 Vict. c. 132. *Miscellaneous.*

XV. The provisions of the Lands Clauses Consolidation Act, 1845, with reference to the purchase of lands by agreement (*a*), shall be incorporated with this act, and shall apply to the purchase of land by the company in pursuance of this act.

Certain provisions of 8 & 9 Vict. c. 18, incorporated with this act.

Recovery of penalties.

XVI. All penalties imposed by this act, or by any byelaws made in pursuance of this act or of any act incorporated herewith, and all sums of money hereby directed to be recovered in a summary manner, may be recovered in a summary manner before two justices, as directed by an act passed in the eleventh and twelfth years of the reign of her present Majesty Queen Victoria, chapter forty-three, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders" (*b*).

Extent of act.

XVII. This act shall not extend to Scotland.

## SCHEDULE.

*Articles of Association of the Company.*

1. The name of the company shall be the company.

Sect. 6. 2. The capital of the company shall be pounds divided into shares of pounds each.

Sect. 66. 3. The first ordinary meeting of the company shall be held days after the date of the incorporation of the company.

Sect. 82. 4. The number of directors shall be ; but the company may reduce such number to any number not less than and may increase it to any number not exceeding .

Sect. 83. 5. The first directors of the company shall be the following persons; that is to say*,

* *Insert names of directors.*

N.B.—The references in the margin refer to the sections of the Companies Clauses Consolidation Act, 1845.

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## 19 & 20 Vict. c. 107.

19 & 20 Vict. c. 107. *An Act to amend the Smoke Nuisance Abatement (Metropolis) Act*, 1853 (*c*). [29th July, 1856.]

16 & 17 Vict. c. 128.

Whereas by an act passed in the seventeenth year of the reign of her present Majesty, intituled "An Act to abate the Nuisance arising from the Smoke of Furnaces in the Metropolis, and from Steam Vessels above London Bridge," it was enacted, that nothing in that act contained shall extend or apply to any glass works or pottery works existing within the metropolis before the passing of the said act, and it is expedient that the said provision be repealed, and the said act be amended: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Exemption of certain glass and pottery works from operation of recited act repealed.

I. From and after the first day of January one thousand eight hundred and fifty-eight, the above-mentioned provision whereby certain furnaces in glass works and pottery works were exempted from the operation of the said act shall be repealed; and all steam vessels plying to and fro between London Bridge and any place on the river Thames to the westward of the Nore light shall be subject to the provisions of the said recited act relating to steam vessels above London Bridge.

Steam vessels plying between London and the Nore Light subject to provisions of recited act.

(*a*) See note, p. 118. (*b*) See note, p. 55.
(*c*) See "Prevention of Smoke," p. 62, and 16 & 17 Vict. c. 128, p. 338.

19 & 20 Vict. c. 107.

Provisions of recited act extended to furnaces used in public baths and wash-houses.

II. And whereas it is expedient that furnaces employed in public baths and wash-houses should be included within the provisions of the said recited act: be it enacted, that from and after the said first day of January one thousand eight hundred and fifty-eight every furnace employed or to be employed in any such public baths and wash-houses in the metropolis, although the same shall not be used for the purposes of trade or manufacture, shall be and the same is hereby included in and made liable to all the provisions of the said recited act.

No proceedings to be taken by secretary of state under 16 & 17 Vict. c. 128, unless local authorities fail to proceed under 18 & 19 Vict. c. 121.

III. And whereas in the said act, sixteen and seventeen Victoria, chapter one hundred and twenty-eight, it was provided, that other nuisances besides smoke should be proceeded against at the instigation of one of her Majesty's principal secretaries of state: and whereas by the subsequent acts, eighteen and nineteen Victoria, chapter one hundred and twenty and chapter one hundred and twenty-one (*a*), the local authorities are entitled to originate proceedings for the abatement of such nuisances: be it hereby enacted, that no proceeding shall be taken under the said act, sixteenth and seventeenth Victoria, chapter one hundred and twenty-eight (*b*), against other nuisances besides smoke, unless it shall at any time appear to the secretary of state that the local authorities fail to proceed actively and impartially in noticing and suppressing such nuisances.

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## 19 & 20 Vict. c. 112.

19 & 20 Vict. c. 112.

*An Act to amend the Act of the last Session of Parliament, chapter one hundred and twenty, for the better Local Management of the Metropolis.* [29th July, 1856.]

18 & 19 Vict. c. 120(*c*).

Whereas it is expedient to amend the act of the last session of parliament, chapter one hundred and twenty, "for the better local management of the metropolis," as hereinafter mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Church rates where made in open vestry before passing of the act 18 & 19 Vict. c. 120, to continue to be so made.

I. Where at the time of the passing of the said act the power of making church rates or rates of the nature of church rates in any parish was vested in any open vestry, or in any meeting in the nature of an open vestry meeting, or in any meeting of the parishioners, inhabitants, or ratepayers generally, or of such of the parishioners, inhabitants, or ratepayers as were rated at or above any specified amount or value (whether such vestry or meeting were holden for the parish at large or for any liberty or other district therein), such power shall not be deemed to have become vested in the vestry constituted in such parish under the said act, but shall be exercised as if the said act had not been passed: provided always, that this act shall not affect any such rate made before the passing thereof by any such vestry as last aforesaid.

Nothing in this act or in 18 & 19 Vict. c. 120, to affect ecclesiastical districts.

II. Nothing in the said act or this act shall affect or be deemed to have affected any power of electing or appointing churchwardens or making church rates, or other power which, at the time of the passing of the said act, was vested in any such open vestry or meeting as aforesaid, or any elected or other vestry, where such vestry or meeting acts exclusively for any district (by whatever denomination distinguished) created for ecclesiastical purposes only.

(*a*) See 18 & 19 Vict. c. 121, p. 419.
(*b*) See 16 & 17 Vict. c. 128, p. 338.
(*c*) See 18 & 19 Vict. c. 120, p 343.

19 & 20 Vict. c. 112.

Other powers of vestries and like meetings declared to have been transferred to vestries under act 18 & 19 Vict. c. 120, except powers transferred to district boards.

III. Save as hereinbefore otherwise provided, all the duties, powers, and privileges (including such as relate to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor (*a*)), which might have been performed or exercised by any open or elected or other vestry or any such meeting as aforesaid in any parish, under any local act or otherwise, at the time of the passing of the said act of the last session, shall be deemed to have become transferred to and vested in the vestry constituted by such last-mentioned act; except so far as any such duties, powers, or privileges may in the case of a parish included in any district mentioned in schedule (B.) to the said act be vested by section ninety thereof in the board of works of such district (*b*): provided that all duties and powers relating to the affairs of the church, or the management or relief of the poor, or the administration of any money or other property applicable to the relief of the poor, which at the time of the passing of the said act were vested in or might be exercised by any guardians, governors, trustees, or commissioners, or any body, other than any open or elected or other vestry, or any such meeting as hereinbefore mentioned, shall continue vested in and be exercised by such guardians, governors, trustees, or commissioners or other body as aforesaid.

Occupiers may claim to be rated.

IV. It shall be lawful for any person occupying any tenement within any parish to claim to be rated to the relief of the poor in respect thereof in the rate for the time being, and in all rates to be thereafter made in respect of such tenement, whether the landlord be or be not liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, by notice in writing left at the office or place of residence of the overseers of the poor of the parish, or one of them, and actually paying or tendering at such office or place of residence the full amount of the last made rate then payable in respect of such premises, such overseers are hereby required to put the name of such occupier on the rate for the time being, and also, without further claim, to put his name upon every subsequent rate made during the time such occupier continues in the occupation of the same premises; and in case the said overseers neglect or refuse so to do, such occupier shall nevertheless, for the purposes of the said act, be deemed to have been rated to the said rate in respect of such premises from the period at which the rate for the time being in respect of which he so claimed to be rated as aforesaid was made, and thenceforth so long as he continues in the occupation of the same premises: provided always, that every person so claiming as aforesaid shall in respect of every rate for the relief of the poor made after such claim as aforesaid, while he continues to occupy the same premises, be liable to the same extent and in the same manner as if his name had been put on such rate.

Compositions not to be disturbed, and landlord's liability not to be affected.

V. Provided also, that in cases where, by any composition with the landlord, a less sum is payable than the full amount of rate which, except for such composition, would be due in respect of the same premises, the occupier claiming to be rated shall not be bound to pay or tender more than the amount then payable under such composition: provided also, that where, by virtue of any act of parliament, the landlord is liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord; but in case the tenant who has been rated for such premises in consequence of any such claim as aforesaid

(*a*) Not, however, the right of presentation to an advowson vested in trustees for the parishioners and inhabitants (*Carter* v. *Cropley*, 26 L. J., Ch. 246); nor the election of almspeople vested "in the minister, churchwardens, &c., and such of the parishioners as should pay taxations to the poor" (*Atty.-Gen.* v. *Drapers' Co.*, 4 Drew. 299; 27 L. J., Ch. 542).

(*b*) See 18 & 19 Vict. c. 120, proviso to s. 197 (p. 394), which is not repealed by this act (*R.* v. *St. Pancras Directors*, E. B. & E. 583; 5 Jur., N.S., 120).

nake default in the payment of the rate for the relief of the poor payable n respect thereof, such landlord shall be and remain liable for the pay- nent thereof, in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant. 19 & 20 Vict. c. 112.

VI. Any occupier who under this act is rated or deemed to be rated to he relief of the poor in any parish, and has been so rated or deemed to be ated for one year next before any election of vestrymen or auditors under he said act, shall be entitled to vote in such election, and shall for the urposes of the said act be deemed a ratepayer of such parish, and be ntitled to act as such, provided all parochial rates, taxes, and assess- nents, save and except church rates, due in respect of the same premises t the time of his so voting or acting, except such as have been made or ecome due within six months immediately preceding such voting or acting, ave been paid; but such occupier shall not be deemed to be a ratepayer o as to gain a settlement where he would not have gained a settlement if his act had not been passed. Right of occupier so claiming to vote in elections.

VII. The provision in section sixteen of the said act requiring all arochial rates, taxes, and assessments (except as therein excepted) to ave been paid shall not be taken to include church rates. Payment of church rates not necessary as a qualification.

VIII. And whereas by the act of the session holden in the sixth and eventh years of King William the Fourth, chapter ninety-six, "to regulate arochial assessments," it is required that every rate for the relief of the oor shall, in addition to any other particular which the form of making ut such rate shall require to be set forth, contain an account of every articular set forth at the head of the respective columns in the form given the schedule to that act annexed, so far as the same can be ascertained, nd in the form in the said schedule are two columns headed respectively 'gross estimated rental" and "rateable value:" and whereas by the aid act of the last session it is required that in order to qualify a person o be elected a vestryman or auditor he should be rated to the relief of the oor upon a rental of such amount as therein mentioned: and whereas oubts are entertained which of the amounts specified in the said two olumns is to be deemed the "rental" for the purposes of the last men- oned act: Rental to be determined by column headed "rateable value."

The amount specified in the said column headed "rateable value" shall be deemed the "rental" for the purposes of the last-mentioned act.

IX. Every meeting of any vestry constituted by the said act of the last session, of which and of the special purpose whereof notice is now by law equired to be affixed on or near the principal doors of the churches and hapels within the parish, may be convened by transmitting through the ost or otherwise notice, signed by the clerk to the vestry, to each vestry- an, at his usual or last known place of abode in England, of the place nd hour of holding the same, and the special purposes thereof, three ays before the day appointed for such meeting, and also by affixing at the ame time notice thereof on or near the door of any building where the aid meeting is to be holden, and it shall not be necessary that notice of ny such meeting shall be further or otherwise signed or published. Regulation of meetings of vestries constituted by 18 & 19 Vict. c. 120.

X. And whereas doubts are entertained whether the provision in section ne hundred and forty-four of the said act of the last session (a), author- ing the metropolitan board of works, where it appears to them that rther powers are required for the purpose of any work for the improve- ent of the metropolis or public benefit of the inhabitants thereof, to ake applications to parliament for that purpose, and providing that the xpenses of such application may be defrayed as other expenses of the said oard, extends to authorise applications to parliament by such board for owers for providing parks, pleasure grounds, places of recreation, and pen spaces, and it is expedient to remove such doubts: the powers given Section 144 of 18 & 19 Vict. c. 120, declared to extend to authorise applications to parliament for providing parks, &c.

(a) See 18 & 19 Vict. c. 120, s. 144, p. 378.

19 & 20 Vict. c. 112.

to the said board to make applications to parliament, and the provision for the expenses of such application, extend respectively to applications to parliament for the purpose of providing parks, pleasure grounds, places of recreation, and open spaces for the improvement of the metropolis or the public benefit of the inhabitants thereof, and to the expenses of all such applications.

District boards and vestries empowered to take ground to be maintained as an open space or pleasure ground.

XI. Any district board or vestry may take, by agreement or gift, any land or any right or easement in or over land, for any estate or interest therein, and on such terms and conditions as they may think fit, for the purpose of such land being either kept as an open space or being kept and maintained as a pleasure ground for the public benefit of the inhabitants of the district or parish; but this enactment shall not authorise any expenditure to be defrayed by rates, except for the purpose of enclosing, maintaining, planting, and otherwise improving the same.

Recited act and this act to be as one.

XII. The said act of the last session and this act shall be construed together as one act.

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## 21 Vict. c. 25.

21 Vict. c. 25.

*An Act to amend the Act concerning Non-parochial Registers, and the Acts for Marriages, and for registering Births, Deaths, and Marriages, in England, and concerning Vaccination* (*a*). [14th June, 1858.]

So much of 16 & 17 Vict. c. 100, as enacts that vaccination forms shall be furnished to registrars, and delivered by them to medical officers and practitioners, repealed.

VII. And whereas by the act of the session holden in the sixteenth and seventeenth years of her Majesty, chapter one hundred (*b*), it was enacted, that the said registrar general should within two months after the passing of that act frame and provide such books, forms, and regulations as he might deem requisite for carrying into full effect the provisions of that act, and should transmit the same to the superintendent registrars of each district in England and Wales, who should deliver to the medical officers appointed as in the said act mentioned, and other duly qualified medical practitioners in the said district, such of the said books, forms, and regulations as they might require for the performance of the duties imposed upon them by that act, and the expenses to be incurred by the registrar general under the provisions of that act should be defrayed in the same manner as the expenses under the said act of the six and seventh years of king William the Fourth, chapter eighty-five:

Registrars to deliver books, &c., to medical officers, &c., without requiring payment for the same.

The said enactment, except so much thereof as directs the registrar general to frame and provide such books, forms, and regulations as therein mentioned, shall be repealed; and the registrar general shall transmit from time to time to the registrar of births and deaths in every sub-district such books, forms, and regulations as may be requisite for the use of the medical officers appointed as in the said act mentioned, and other duly qualified medical practitioners in the sub-district; and every such registrar shall deliver to such medical officers and practitioners respectively, without requiring payment for the same, such of the said books, forms, and regulations as they may require for the performance of the duties imposed upon them by that act.

(*a*) See "Vaccination," p. 165.
(*b*) See 16 & 17 Vict. c. 100, p. 334.

## 21 & 22 Vict. c. 90.

*An Act to Regulate the Qualifications of Practitioners in Medicine and Surgery (a).* [2nd August, 1858.] 21 & 22 Vict. c. 90.

Whereas it is expedient that persons requiring medical aid should be abled to distinguish qualified from unqualified practitioners; be it erefore enacted by the Queen's most excellent Majesty, by and with the vice and consent of the lords spiritual and temporal, and commons, in is present parliament assembled, and by the authority of the same, as lows:

I. This act may for all purposes be cited as "The Medical Act." Short title.

II. This act shall commence and take effect from the first day of ctober one thousand eight hundred and fifty-eight. Commencement of act.

III. A council which shall be styled "the general council of medical ucation and registration of the united kingdom," hereinafter referred to the general council, shall be established, and branch councils for ngland, Scotland, and Ireland respectively formed thereout as herein-ter mentioned. Medical council.

IV. The general council shall consist of one person chosen from time to me by each of the following bodies; (that is to say,) Members of council.

The Royal College of Physicians:
The Royal College of Surgeons of England:
The Apothecaries' Society of London:
The University of Oxford:
The University of Cambridge:
The University of Durham:
The University of London:
The College of Physicians of Edinburgh:
The College of Surgeons of Edinburgh:
The Faculty of Physicians and Surgeons of Glasgow:
One person chosen from time to time by the University of Edinburgh and the two universities of Aberdeen collectively:
One person chosen from time to time by the University of Glasgow and the University of St. Andrew's collectively:
One person chosen from time to time by each of the following bodies:
The King and Queen's College of Physicians in Ireland:
The Royal College of Surgeons in Ireland:
The Apothecaries' Hall of Ireland:
The University of Dublin:
The Queen's University in Ireland:

nd six persons to be nominated by her Majesty with the advice of her rivy council, four of whom shall be appointed for England, one for cotland, and one for Ireland; and of a president, to be elected by the neral council.

V. If the said Universities of Edinburgh and Aberdeen, of Glasgow and aint Andrew's respectively, shall not be able to agree upon some one erson to represent them in the council, it shall be lawful for each one of ne said universities to select one person; and thereupon it shall be lawful or her Majesty, with the advice of her privy council, to appoint one of he persons so selected to be a member of the said council for the said niversities. Provision in case the universities of Glasgow, Aberdeen, and Saint Andrew's fail to appoint a person to represent them.

VI. The members chosen by the medical corporations and universities of Branches of

(a) See "Medical Practitioners," p. 175.

21 & 22 Vict. c. 90.

England, Scotland, and Ireland respectively, and the members nominated by her Majesty, with the advice of her privy council, for such parts respectively of the United Kingdom, shall be the branch councils for such parts respectively of the United Kingdom, to which branch councils shall be delegated such of the powers and duties vested in the council as the council may see fit, other than the power to make representations to her Majesty in council as hereinafter mentioned: the president shall be a member of all the branch councils.

the council for England, Scotland, and Ireland.

Qualification.

VII. Members of the general council representing the medical corporations must be qualified to be registered under this act.

Resignation or death of member of general council.

VIII. The members of the general council shall be chosen and nominated for a term not exceeding five years, and shall be capable of re-appointment, and any member may at any time resign his appointment by letter addressed to the president of the said council, and upon the death or resignation of any member of the said council, some other person shall be constituted a member of the said council in his place in manner hereinbefore provided; but it shall be lawful for the council during such vacancy to exercise the powers hereinafter mentioned.

Time and place of meeting of the general council.

IX. The general council shall hold their first meeting within three months from the commencement of this act, in such place and at such time as one of her Majesty's principal secretaries of state shall appoint, and shall make such rules and regulations as to the times and places of the meetings of the general council, and the mode of summoning the same, as to them shall seem expedient, which rules and regulations shall remain in force until altered at any subsequent meeting; and in the absence of any rule or regulation as to the summoning a meeting of the general council, it shall be lawful for the president to summon a meeting at such time and place as to him shall seem expedient by letter addressed to each member; and at every meeting, in the absence of the president, some other member to be chosen from the members present shall act as president; and all acts of the general council shall be decided by the votes of the majority of the members present at any meeting, the whole number present not being less than eight, and at all such meetings the president for the time being shall, in addition to his vote as a member of the council, have a casting vote, in case of an equality of votes; and the general council shall have power to appoint an executive committee out of their own body, of which the quorum shall not be less than three, and to delegate to such committee such of the powers and duties vested in the council as the council may see fit, other than the power of making representations to her Majesty in council as hereinafter mentioned.

Appointment of registrars and other officers.

X. The general council shall appoint a registrar, who shall act as secretary of the general council, and who may also act as treasurer, unless the council shall appoint another person or other persons as treasurer or treasurers; and the person or persons so appointed shall likewise act as registrar for England, and as secretary and treasurer or treasurers, as the case may be, for the branch council for England; the general council and branch council for England shall also appoint so many clerks and servants as shall be necessary for the purposes of this act: and every person so appointed by any council shall be removable at the pleasure of that council, and shall be paid such salary as the council by which he was appointed shall think fit.

Appointment of registrars and other officers by branch councils.

XI. The branch councils for Scotland and Ireland shall each respectively in like manner appoint a registrar and other officers and clerks, who shall be paid such salaries as such branch councils respectively shall think fit, and be removable at the pleasure of the council by which they were appointed; and the person appointed registrar shall also act as secretary to the branch council, and may also act as treasurer, unless the council shall appoint some other person or persons as treasurer or treasurers.

Fees for

XII. There shall be paid to the members of the councils such fees for

attendance and such reasonable travelling expenses as shall from time to time be allowed by the general council and approved by the commissioners of her Majesty's treasury.

attendance at councils.

Expenses of the councils.

XIII. All monies payable to the respective councils shall be paid to the treasurers of such councils respectively, and shall be applied to defray the expenses of carrying this act into execution in manner following; that is to say, separate accounts shall be kept of the expenses of the general council, and of those of the branch councils; and the expenses of the general council, including those of keeping, printing, and publishing the register for the United Kingdom, shall be defrayed, under the direction of the general council, by means of an equal per-centage rate upon all monies received by the several branch councils; returns shall be made by the treasurers of the respective branch councils, at such times as the general council shall direct, of all monies received by them; and the necessary per-centage having been computed by the general council, the respective contributions shall be paid by the treasurers of such branch councils to the treasurer or treasurers of the general council; and the expenses of the branch councils shall be defrayed, under the direction of those councils respectively, out of the residue of the monies so received as aforesaid.

Duty of registrar to keep the register correct.

XIV. It shall be the duty of the registrars to keep their respective registers correct in accordance with the provisions of this act, and the orders and regulations of the general council, and to erase the names of all registered persons who shall have died, and shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this act; and to enable the respective registrars duly to fulfil the duties imposed upon them it shall be lawful for the registrar to write a letter to any registered person, addressed to him according to his address on the register, to inquire whether he has ceased to practise, or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the sending of the letter it shall be lawful to erase the name of such person from the register; provided always, that the same may be restored by direction of the general council should they think fit to make an order to that effect.

Registration of persons now qualified, and of persons hereafter becoming qualified.

XV. Every person now possessed, and (subject to the provisions hereinafter contained) every person hereafter becoming possessed, of any one or more of the qualifications described in the schedule (A.) to this act, shall, on payment of a fee, not exceeding two pounds in respect of qualifications obtained before the first day of January one thousand eight hundred and fifty-nine, and not exceeding five pounds in respect of qualifications obtained on or after that day, be entitled to be registered on producing to the registrar of the branch council for England, Scotland, or Ireland the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered, or upon transmitting by post to such registrar information of his name and address, and evidence of the qualification or qualifications in respect whereof he seeks to be registered, and of the time or times at which the same was or were respectively obtained: provided always, that it shall be lawful for the several colleges and other bodies mentioned in the said schedule (A.) to transmit from time to time to the said registrar lists certified under their respective seals of the several persons who, in respect of qualifications granted by such colleges and bodies respectively, are for the time being entitled to be registered under this act, stating the respective qualifications and places of residence of such persons; and it shall be lawful for the registrar thereupon, and upon payment of such fee as aforesaid in respect of each person to be registered, to enter in the register the persons mentioned in such lists, with their qualifications and places of residence as therein stated, without other application in relation thereto.

Council to make orders for regulat-

XVI. The general council shall, with all convenient speed after the passing of this act, and from time to time as occasion may require, make

orders for regulating the registers to be kept under this act as nearly as conveniently may be in accordance with the form set forth in schedule (D.) to this act, or to the like effect.

ing registers to be kept.

Persons practising in England before 1st August, 1815, entitled to be registered.

XVII. Any person who was actually practising medicine in England before the first day of August one thousand eight hundred and fifteen shall, on payment of a fee to be fixed by the general council, be entitled to be registered on producing to the registrar of the branch council for England, Scotland, or Ireland, a declaration according to the form in the schedule (B.) to this act signed by him, or upon transmitting to such registrar information of his name and address, and enclosing such declaration as aforesaid.

Council may require information as to course of study, &c., required for obtaining qualifications.

XVIII. The several colleges and bodies in the United Kingdom mentioned in schedule (A.) to this act shall from time to time, when required by the general council, furnish such council with such information as they may require as to the courses of study and examinations to be gone through in order to obtain the respective qualifications mentioned in schedule (A.) to this act, and the ages at which such courses of study and examinations are required to be gone through, and such qualifications are conferred, and generally as to the requisites for obtaining such qualifications; and any member or members of the general council, or any person or persons deputed for this purpose by such council, or by any branch council, may attend and be present at any such examinations.

Colleges may unite in conducting examinations.

XIX. Any two or more of the colleges and bodies in the United Kingdom mentioned in schedule (A.) to this act may, with the sanction and under the directions of the general council, unite or co-operate in conducting the examinations required for qualifications to be registered under this act.

Defects in the course of study or examinations may be represented by general council to privy council.

XX. In case it appear to the general council that the course of study and examinations to be gone through in order to obtain any such qualification from any such college or body are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for such general council to represent the same to her Majesty's most honourable privy council.

Privy council may suspend the right of registration in respect of qualifications granted by college, &c., in default, but may be revoked.

XXI. It shall be lawful for the privy council, upon any such representation as aforesaid, if it see fit, to order that any qualification granted by such college or body, after such time as may be mentioned in the order, shall not confer any right to be registered under this act: provided always, that it shall be lawful for her Majesty, with the advice of her privy council, when it is made to appear to her, upon further representation from the general council or otherwise, that such college or body has made effectual provision, to the satisfaction of such general council, for the improvement of such course of study or examinations, or the mode of conducting such examinations, to revoke any such order.

Persons not to be registered in respect of qualifications granted by the college or body before revocation.

XXII. After the time mentioned in this behalf in any such order in council no person shall be entitled to be registered under this act in respect of any such qualification as in such order mentioned granted by the college or body to which such order relates, after the time therein mentioned, and the revocation of any such order shall not entitle any person to be registered in respect of any qualification granted before such revocation.

Privy council may prohibit attempts to impose restrictions as to any theory of

XXIII. In case it shall appear to the general council that an attempt has been made by any body, entitled under this act to grant qualifications, to impose upon any candidate offering himself for examination an obligation to adopt or refrain from adopting the practice of any particular theory of medicine or surgery, as a test or condition of admitting him to examination, or of granting a certificate, it shall be lawful for the said council to represent the same to her Majesty's most honourable privy council, and

the said privy council may thereupon issue an injunction to such body so acting, directing them to desist from such practice; and in the event of their not complying therewith, then to order that such body shall cease to have the power of conferring any right to be registered under this act so long as they shall continue such practice. 21 & 22 VICT. c. 90. medicine or surgery by bodies entitled to grant certificates.

XXIV. All powers vested in the privy council by this act may be exercised by any three or more of the lords and others of the privy council, the vice-president of the committee of the said privy council on education being one of them; and all orders and acts of the privy council under this act shall be sufficiently made and signified by a written or printed document, signed by one of the clerks of the privy council, or such officer as may be appointed by the privy council in this behalf; and all orders and acts made or signified by any written or printed document purporting to be so signed shall be deemed to have been duly made, issued, and done by the privy council; and every such document shall be received in evidence in all courts, and before all justices and others, without proof of the authority or signature of such clerk or other officer or other proof whatsoever, until it be shown that such document was not duly signed by the authority of the privy council. As to the making and authentication of orders, &c.

XXV. Where any person entitled to be registered under this act applies to the registrar of any of the said branch councils for that purpose, such registrar shall forthwith enter in a local register in the form set forth in schedule (D.) to this act, or to the like effect, to be kept by him for that purpose, the name and place of residence, and the qualification or several qualifications in respect of which the person is so entitled, and the date of the registration, and shall, in the case of the registrar of the branch council for Scotland or Ireland, with all convenient speed send to the registrar of the general council a copy, certified under the hand of the registrar, of the entry so made, and the registrar of the general council shall forthwith cause the same to be entered in the general register; and such registrar shall also forthwith cause all entries made in the local register for England to be entered in the general register; and the entry on the general register shall bear date from the local register. As to registration by branch registrars.

XXVI. No qualification shall be entered on the register, either on the first registration or by way of addition to a registered name, unless the registrar be satisfied by the proper evidence that the person claiming is entitled to it; and any appeal from the decision of the registrar may be decided by the general council, or by the council for England, Scotland, or Ireland (as the case may be); and any entry which shall be proved to the satisfaction of such general council or branch council to have been fraudulently or incorrectly made may be erased from the register by order in writing of such general council or branch council (*a*). Evidence of qualification to be given before registration.

XXVII. The registrar of the general council shall in every year cause to be printed, published, and sold, under the direction of such council, a correct register of the names in alphabetical order according to the surnames, with the respective residences, in the form set forth in schedule (D.) to this act, or to the like effect, and medical titles, diplomas, and qualifications conferred by any corporation or university, or by doctorate of the archbishop of Canterbury, with the dates thereof, of all persons appearing on the general register as existing on the first day of January in every year; and such register shall be called "the medical register;" and a copy of the medical register for the time being, purporting to be so printed and published as aforesaid, shall be evidence in all courts and before all justices of the peace and others that the persons therein specified are registered according to the provisions of this act; and the absence of the name of any person from such copy shall be evidence, until the contrary be made to appear, that such person is not registered according to Register to be published.

(*a*) See note, p. 181.

21 & 22 Vict. c. 90.

the provisions of this act: provided always, that in the case of any person whose name does not appear in such copy, a certified copy, under the hand of the registrar of the general council or of any branch council, of the entry of the name of such person on the general or local register shall be evidence that such person is registered under the provisions of this act.

Names of members struck off from list of college, &c., to be signified to general council.

XXVIII. If any of the said colleges or the said bodies at any time exercise any power they possess by law of striking off from the list of such college or body the name of any one of their members, such college or body shall signify to the general council the name of the member so struck off; and the general council may, if they see fit, direct the registrar to erase forthwith from the register the qualification derived from such college or body in respect of which such member was registered, and the registrar shall note the same therein: provided always, that the name of no person shall be erased from the register on the ground of his having adopted any theory of medicine or surgery.

Medical practitioners convicted of felony may be struck off the register.

XXIX. If any registered medical practitioner shall be convicted in England or Ireland of any felony or misdemeanor, or in Scotland of any crime or offence, or shall after due inquiry be judged by the general council to have been guilty of infamous conduct in any professional respect, the general council may, if they see fit, direct the registrar to erase the name of such medical practitioner from the register (*a*).

Registered persons may have subsequent qualifications inserted in the register.

XXX. Every person registered under this act who may have obtained any higher degree or any qualification other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on payment of such fee as the council may appoint.

Privileges of registered persons.

XXXI. Every person registered under this act shall be entitled according to his qualification or qualifications to practise medicine or surgery, or medicine and surgery, as the case may be, in any part of her Majesty's dominions, and to demand and recover in any court of law, with full costs of suit, reasonable charges for professional aid, advice, and visits, and the cost of any medicines or other medical or surgical appliances rendered or supplied by him to his patients: provided always, that it shall be lawful for any college of physicians to pass a byelaw to the effect that no one of their fellows or members shall be entitled to sue in manner aforesaid in any court of law, and thereupon such byelaw may be pleaded in bar to any action for the purposes aforesaid commenced by any fellow or member of such college.

None but registered persons to recover charges.

XXXII. After the first day of January one thousand eight hundred and fifty-nine (*b*), no person shall be entitled to recover any charge in any court of law for any medical or surgical advice, attendance, or for the performance of any operation, or for any medicine which he shall have both prescribed and supplied, unless he shall prove upon the trial that he is registered under this act (*c*).

*Poor law medical officers not disqualified if registered within six months of passing of act.*

XXXIII. *Provided also, that no person who on the first of October one thousand eight hundred and fifty-eight, shall be acting as medical officer under an order of the poor law commissioners or poor law board shall be disqualified to hold such office by reason of his not being registered as herein required, unless he shall have failed to be registered within six months from the passing of this act* (*d*).

Meaning of terms "legally qualified medical practitioner," &c.

XXXIV. After the first day of January one thousand eight hundred and fifty-nine (*e*), the word "legally qualified medical practitioner" or "duly qualified medical practitioner" or any words importing a person recognised

(*a*) See note, p. 178. (*b*) 1861: see 23 Vict. c. 7, s. 3, *post*.
(*c*) See note (*b*), p. 178. (*d*) See 22 Vict. c. 21, s. 2, *post*.
(*e*) 1861: see 23 Vict. c. 7, s. 3, *post*.

· law as a medical practitioner, or member of the medical profession, 21 & 22 Vict. c. 90.
ıen used in any act of parliament, shall be construed to mean a person
gistered under this act.

Registered persons exempted from serving on juries, &c.

**XXXV.** Every person who shall be registered under the provisions of
is act shall be exempt, if he shall so desire, from serving on all juries
d inquests whatsoever, and from serving all corporate, parochial, ward,
ndred, and township offices, and from serving in the militia, and the
me of such person shall not be returned in any list of persons liable to
rve in the militia, or in any such office as aforesaid.

Unregistered persons not to hold certain appointments.

**XXXVI.** After the first day of January one thousand eight hundred and
ty-nine, no person shall hold any appointment as a physician, surgeon, or
her medical officer either in the military or naval service, or in emigrant
other vessels, or in any hospital, infirmary, dispensary, or lying-in-
spital, not supported wholly by voluntary contributions, or in any lunatic
ylum, gaol, penitentiary, house of correction, house of industry, parochial
union workhouse or poorhouse, parish union, or other public establish-
ent, body, or institution, or to any friendly or other society for affording
utual relief in sickness, infirmity, or old age, or as a medical officer of
alth, unless he be registered under this act (*a*): provided always, that
thing in this act contained shall extend to repeal or alter any of the pro-
sions of the Passengers Act, 1855 (*b*).

No certificate to be valid unless person signing be registered.

**XXXVII.** After the first day of January one thousand eight hundred
d fifty-nine, no certificate required by any act now in force, or that may
reafter be passed, from any physician, surgeon, licentiate in medicine and
rgery, or other medical practitioner, shall be valid unless the person
gning the same be registered under this act.

Penalty on wilful falsification of register.

**XXXVIII.** Any registrar who shall wilfully make or cause to be made
y falsification in any matters relating to the register shall be deemed
ilty of a misdemeanor in England or Ireland, and in Scotland of a crime
· offence punishable by fine or imprisonment, and shall, on conviction
ereof, be imprisoned for any term not exceeding twelve months.

Penalty for obtaining registration by false representations.

**XXXIX.** If any person shall wilfully procure or attempt to procure
mself to be registered under this act, by making or producing or causing
be made or produced any false or fraudulent representation or declara-
on, either verbally or in writing, every such person so offending, and
ery person aiding and assisting him therein, shall be deemed guilty of a
isdemeanor in England and Ireland, and in Scotland of a crime or offence
nishable by fine or imprisonment, and shall, on conviction thereof, be
ntenced to be imprisoned for any term not exceeding twelve months.

Penalty for falsely pretending to be a registered person.

**XL.** Any person who shall wilfully and falsely pretend to be or take or
se the name or title of a physician, doctor of medicine, licentiate in
edicine and surgery, bachelor of medicine, surgeon, general practitioner
· apothecary, or any name, title, addition, or description implying that
e is registered under this act, or that he is recognised by law as a
hysician, or surgeon, or licentiate in medicine and surgery, or a practitioner
medicine, or an apothecary, shall, upon a summary conviction for any
ich offence, pay a sum not exceeding twenty pounds (*c*).

Recovery of penalties.

**XLI.** Any penalty to which under this act any person is liable on
ummary conviction of any offence may be recovered as follows; (that is
say,) in England, in manner directed by the act of the session holden in
ie eleventh and twelfth years of her Majesty, chapter forty-three (*d*), and
Ireland in manner directed by "The Petty Sessions (Ireland) Act,
851," or any other act for the time being in force in England and Ireland
spectively for the like purposes; and any such penalty may in Scotland
e recovered by the procurator fiscal of the county, or by any other person

(*a*) See 22 Vict. c. 21, s. 6, *post*; and 23 Vict. c. 7, s. 4, *post*.
(*b*) See 18 & 19 Vict. c. 119.
(*c*) See note, p. 181. (*d*) See note, p. 55.

21 & 22 Vict. c. 90.

before the sheriff or two justices, who may proceed in a summary way and grant warrant for bringing the party complained against before him or them, or issue an order requiring such party to appear on a day and at a time and place to be named in such order, and every such order shall be served on the party by delivering to him in person or by leaving at his usual place of abode a copy of such order and of the complaint whereupon the same has proceeded, and upon the appearance or default to appear of the party, it shall be lawful for the sheriff or justices to proceed to the hearing of the complaint, and upon proof on oath or confession of the offence, the sheriff or justices shall without any written pleadings or record of evidence commit the offender and decern him to pay the penalty named, as well as such expenses as the sheriff or justices shall think fit, and failing payment shall grant warrant for recovery thereof by poinding and imprisonment, such imprisonment to be for such period as the discretion of the sheriff or justices may direct, not exceeding three calendar months, and to cease on payment of the penalty and expenses

Application of penalties.

XLII. Any sum or sums of money arising from conviction and recovery of penalties as aforesaid shall be paid to the treasurer of the general council.

Application of monies received by treasurer.

XLIII. All monies received by any treasurer arising from fees to be paid on registration, from the sale of registers, from penalties, or otherwise, shall be applied for expenses of registration and of the execution of this act.

Accounts to be published.

XLIV. The treasurers of the general and branch councils shall enter in books to be kept for that purpose a true account of all sums of money by them received and paid, and such accounts shall be submitted by them to the respective general council and branch councils at such times as the councils shall require; and the said accounts shall be published annually, and such accounts shall be laid before both houses in the month of March in every year, if parliament be sitting, or, if parliament be not sitting, then within one month after the next meeting of parliament.

Notice of death of medical practitioners to be given by registrars.

XLV. Every registrar of deaths in the United Kingdom on receiving notice of the death of any medical practitioner shall forthwith transmit by post to the registrar of the general council and to the registrar of the branch council a certificate under his own hand of such death, with the particulars of time and place of death, and may charge the cost of such certificate and transmission as an expense of his office, and on the receipt of such certificate the medical registrar shall erase the name of such deceased medical practitioner from the register.

Provision for persons practising in the colonies and elsewhere, and for students.

XLVI. It shall be lawful for the general council by special orders to dispense with such provisions of this act or with such part of any regulations made by its authority as to them shall seem fit in favour of persons now practising medicine or surgery in any part of her Majesty's dominions other than Great Britain and Ireland by virtue of any of the qualifications described in schedule (A.); and also in favour of persons practising medicine or surgery within the United Kingdom on foreign or colonial diplomas or degrees before the passing of this act; and also in favour of any persons who have held appointments as surgeons or assistant surgeons in the army, navy, or militia, or in the service of the East India Company, or are acting as surgeons in the public service, or in the service of any charitable institutions, and also, so far as to the council shall seem expedient, in favour of medical students who shall have commenced their professional studies before the passing of this act.

New charter may be granted to the College of Physicians of London.

XLVII. It shall be lawful for her Majesty to grant to the corporation of the Royal College of Physicians of London a new charter, and thereby to give to such corporation the name of "The Royal College of Physicians of England," and to make such alterations in the constitution of the same corporation as to her Majesty may seem expedient; and it shall be lawful for the said corporation to accept such charter under their common seal,

and such acceptance shall operate as a surrender of all charters heretofore granted to the said corporation, except the charter granted by King Henry the Eighth, and shall also operate as a surrender of such charter and of any rights, powers, or privileges conferred by or enjoyed under an act of the session holden in the fourteenth and fifteenth years of King Henry the Eighth, chapter five, confirming the same, as far as such charter and act respectively may be inconsistent with such new charter: provided nevertheless, that within twelve months after the granting of such charter to the College of Physicians of London, any fellow, member, or licentiate of the Royal College of Physicians of Edinburgh, or of the Queen's College of Physicians of Ireland, who may be in practice as a physician in any part of the United Kingdom called England, and who may be desirous of becoming a member of such College of Physicians of England, shall be at liberty to do so, and be entitled to receive the diploma of the said college, and to be admitted to all the rights and privileges thereunto appertaining, on the payment of a registration fee of two pounds to the said college. 21 & 22 Vict. c. 90.

XLVIII. It shall, notwithstanding anything herein contained, be lawful for her Majesty, by charter, to grant to the Royal College of Surgeons of England power to institute and hold examinations for the purpose of testing the fitness of persons to practise as dentists who may be desirous of being so examined, and to grant certificates of such fitness. Her Majesty may grant power to College of Surgeons to institute examinations, &c., for dentists.

XLIX. It shall be lawful for her Majesty to grant to the corporation of the Royal College of Physicians of Edinburgh a new charter, and thereby to give to the said College of Physicians the name of "The Royal College of Physicians of Scotland," and it shall be lawful for the said Royal College of Physicians, under their common seal, to accept such new charter, and such acceptance shall operate as a surrender of all charters heretofore granted to the said corporation. New charter may be granted to College of Physicians of Edinburgh.

L. If at any future period the Royal College of Surgeons of Edinburgh and Faculty of Physicians and Surgeons of Glasgow agree to amalgamate, so as to form one united corporation, under the name of "The Royal College of Surgeons of Scotland," it shall be lawful for her Majesty to grant, and for such college and faculty under their respective common seals to accept, such new charter or charters as may be necessary for effecting such union, and such acceptance shall operate as a surrender of all charters heretofore granted to such college and faculty; and in the event of such union it shall be competent for the said college and faculty to make such arrangements as to the time and place of their examinations as they may agree upon, these arrangements being in conformity with the provisions of this act, and subject to the approval of the general council. The Faculty at Glasgow may be amalgamated.

LI. It shall be lawful for her Majesty to grant to the corporation of the King and Queen's College of Physicians in Ireland a new charter, and thereby to give to such corporation the name of "The Royal College of Physicians of Ireland," and to make such alterations in the constitution of the said corporation as to her Majesty may seem expedient; and it shall be lawful for the said corporation to accept such charter under their common seal, and such acceptance shall operate as a surrender of the charter granted by King William and Queen Mary, so far as it may be inconsistent with such new charter. New charter may be granted to the King and Queen's College of Physicians in Ireland.

LII. Provided always, that nothing herein contained shall extend to authorise her Majesty to create any new restriction in the practice of medicine or surgery, or to grant to any of the said corporations any powers or privileges contrary to the common law of the land or to the provisions of this act, and that no such new charter shall in any wise prejudice, affect, or annul any of the existing statutes or byelaws of the corporations to which the same shall be granted, further than shall be necessary for giving full effect to the alterations which shall be intended to be effected by such new charters and by this act in the constitution of such corporation. Charters not to contain new restrictions in the practice of medicine or surgery.

21 & 22 Vict. c. 90.

Provisions of 17 & 18 Vict. c. 114, as to University of London to continue in force.

LIII. The enactments and provisions of the University of London Medical Graduates' Act, 1854 (*a*), shall be deemed and construed to have applied and shall apply to the University of London for the time being, notwithstanding the surrender or determination of the therein-recited charter, and the granting or acceptance of the now existing charter of the University of London, or the future determination of the present or any future charter of the said university, and the granting of any new charter to the said university; and that every bachelor of medicine and doctor of medicine of the University of London for the time being shall be deemed to have been and to be entitled and shall be entitled to the privileges conferred by the said act, in the same manner and to the same extent as if the charter recited in the said act remained in force, subject nevertheless to the provisions of this act.

British pharmacopœia to be published.

LIV. The general council shall cause to be published under their direction a book containing a list of medicines and compounds, and the manner of preparing them, together with the true weights and measures by which they are to be prepared and mixed, and containing such other matter and things relating thereto as the general council shall think fit, to be called "British Pharmacopœia;" and the general council shall cause to be altered, amended, and republished such pharmacopœia as often as they shall deem it necessary (*b*).

Chemists, &c., not to be affected.

LV. Nothing in this act contained shall extend or be construed to extend to prejudice or in any way to affect the lawful occupation, trade, or business of chemists and druggists and dentists, or the rights, privileges, or employment of duly licensed apothecaries in Ireland, so far as the same extend to selling, compounding, or dispensing medicines.

## SCHEDULE (A.)

1. Fellow (*c*), licentiate, or extra licentiate of the Royal College of Physicians of London.

2. Fellow (*c*) or licentiate of the Royal College of Physicians of Edinburgh.

3. Fellow or licentiate of the King's and Queen's College of Physicians of Ireland.

4. Fellow or member or licentiate in midwifery of the Royal College of Surgeons of England.

5. Fellow or licentiate of the Royal College of Surgeons of Edinburgh.

6. Fellow or licentiate of the Faculty of Physicians and Surgeons of Glasgow.

7. Fellow or licentiate of the Royal College of Surgeons in Ireland.

8. Licentiate of the Society of Apothecaries, London.

9. Licentiate of the Apothecaries' Hall, Dublin.

10. Doctor, or bachelor, or licentiate of medicine, or master in surgery of any university of the United Kingdom (*d*); or doctor of medicine by doctorate granted prior to passing of this act by the Archbishop of Canterbury.

11. Doctor of medicine of any foreign or colonial university or college, practising as a physician in the United Kingdom before the first day of October 1858, who shall produce certificates to the satisfaction of the council of his having taken his degree of doctor of medicine after regular examination, or who shall satisfy the council, under section forty-five (*e*) of this act, that there is sufficient reason for admitting him to be registered.

(*a*) See 17 & 18 Vict. c. 114, p. 340.
(*b*) See 25 & 26 Vict. c. 91, ss. 2 and 3, *post*.
(*c*) "Member" to be added. See 22 Vict. c. 21, s. 4, *post*.
(*d*) Or Ireland. See 23 Vict. c. 7, s. 1, *post*.
(*e*) "Forty-six" to be substituted for forty-five. See 22 Vict. c. 21, s. 5, *post*.

21 & 22 VICT. c. 90.

SCHEDULE (B.)

DECLARATION required of a person who claims to be registered as a medical practitioner upon the ground that he was in practice as a medical practitioner in England or Wales before the first day of August 1815:

To the registrar of the medical council.

I, residing at in the county of hereby declare that I was practising as a medical practitioner at in the county of before the first day of August 1815.

(Signed) [*Name.*]

Dated this day of 185 .

SCHEDULE (D.)

| Name. | Residence. | Qualification. | *Title (a).* |
|---|---|---|---|
| L.B. . . | London . . | Fellow of the Royal College of Physicians of | |
| L.D. . . | Edinburgh . | Fellow and member of the Royal College of Surgeons of | |
| L.F. . . | Dublin . . | Graduate in medicine of University of | |
| L.H. . . | Bristol . . | Licentiate of the Society of Apothecaries. | |
| .K. . . | London . . | Member of College of Surgeons and Licentiate of the Society of Apothecaries. | |

## 21 & 22 VICT. c. 97.

*An Act for vesting in the Privy Council certain Powers for the Protection of the Public Health.* [2nd August, 1858.]

21 & 22 VICT. c. 97.

WHEREAS under an act of the last session of parliament, chapter thirty-eight, the general board of health stands continued only until the first day of September one thousand eight hundred and fifty-eight: and whereas it is expedient to vest in the privy council certain powers now vested in the said general board of health, and certain other powers for the protection of the public health: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

20 & 21 Vict. c. 38.

Powers of general board of health under 18 & 19 Vict. c. 116, added to those of the privy council.

I. In addition to the powers vested in her Majesty's most honourable privy council for the protection of the public health, all powers now vested in the general board of health under the "Diseases Prevention Act, 1855" (*b*), shall, upon the discontinuance of the said board, be vested in the said privy council, and the provisions of the said act having reference to the general board of health and the regulations and directions issued by them, except section thirteen, shall be construed as referring to such privy council and the regulations and directions issued by them.

Certain powers in relation to public vaccination

II. The privy council may from time to time issue such regulations as they think fit for securing the due qualification of persons to be hereafter contracted with by guardians and overseers of unions and parishes in England for the vaccination of persons resident in such unions and parishes, and for securing the efficient performance of vaccination by the persons

(*a*) See 22 Vict. c. 21, s. 3, *post.*

(*b*) See "Prevention of Diseases," p. 163; and the 18 & 19 Vict. c. 116, p. 341.

21 & 22 Vict. c. 97.

already or hereafter to be contracted with as aforesaid; and any money from time to time provided by parliament for or towards defraying the expenses of the national vaccine establishment, or otherwise providing for the supply of vaccine lymph, shall be applied under the directions of the privy council (*a*).

Vested in privy council.

Privy council may direct inquiries.

III. The privy council may from time to time cause to be made such inquiries as they see fit in relation to any matters concerning the public health in any place or places, and to the observance of the regulations and directions issued by them under this act.

Privy council to appoint medical officer, &c.

IV. The powers of appointing and removing a medical officer, vested in the general board of health under the General Board of Health Continuance Act, 1855, shall, upon the discontinuance of that board, be vested in the privy council; and the person who at the time of the cesser of the general board of health may be their medical officer shall become the medical officer of the privy council subject to such power of removal as aforesaid; and the privy council may also from time to time employ such other persons as they deem necessary for the purposes of this act; and there shall be paid to the medical officer such salary not exceeding fifteen hundred pounds per annum, and to such other persons such remuneration and allowances, as the commissioners of her Majesty's treasury may direct; and such salary, remuneration, and allowances shall be paid out of such monies as shall be provided by parliament.

Medical officer to report annually as to the execution of this act.

V. The medical officer shall from time to time report to the privy council in relation to any matters concerning the public health or such matters as may be referred to him for that purpose, and shall, in or before the month of March in each year, report to the privy council the proceedings had and taken under this act during the preceding year ending on the thirty-first day of December.

Reports to be laid before parliament.

VI. The annual report made by the medical officer as aforesaid shall be laid before both houses of parliament within fourteen days after the making thereof, if parliament be sitting, and if not, then within fourteen days after the next meeting of parliament, together with all other reports made by him under this act, during the period to which such annual report relates.

As to the making and authentication of orders, &c.

VII. All powers vested in the privy council by this act may be exercised by any three or more of the lords and others of the privy council, the vice-president of the committee of the said privy council on education being one of them, and all orders, regulations, directions, and acts of the privy council under this act shall be sufficiently made and signified by a written or printed document, signed by one of the clerks of the privy council, or such officer as may be appointed by the privy council in this behalf; and all orders, regulations, directions, and acts made or signified by any written or printed document purporting to be so signed shall be deemed to have been duly made, issued, and done by the privy council, and every such document shall be received in evidence in all courts and before all justices and others without proof of the authority or signature of such clerk or other officer, or other proof whatsoever, until it be shown that such document was not duly signed by the authority of the privy council.

*Proceedings for penalties under vaccination acts.*

VIII. *Proceedings for penalties under the acts for the time being in force on the subject of vaccination may be taken on the complaint of any registrar employed for the registration of births, deaths, and marriages, public vaccinator, or officer authorised by the board of guardians or by the overseers respectively, and the cost of such proceedings shall be defrayed out of the common fund of the union, or out of the poor rates of any parish not included in a union* (*b*).

Short title, and continuance of act.

IX. This act may be cited as "The Public Health Act, 1858," and shall be in force only until the first day of August one thousand eight hundred and fifty-nine.

(*a*) See "Vaccination," p. 165.

(*b*) This section is repealed by 22 & 23 Vict. c. 3, by which the remainder of this act is made perpetual.

## 21 & 22 VICT. c. 98.

*to amend the Public Health Act, 1848, and to make fur- r Provision for the Local Government of Towns and ulous Districts.* [2nd August, 1858.]

21 & 22 VICT. c. 98.

EAS it is expedient to amend the Public Health Act, 1848, and to ther provisions for the local government of towns and populous in England: be it therefore enacted by the Queen's most excellent by and with the advice and consent of the Lords spiritual and , and Commons, in this present parliament assembled, and by the r of the same, as follows; that is to say,

s act may be cited for all purposes as "The Local Government 8." Short title.

ıe word "borough," or "corporate borough," when used in this Interpre- ı any act conferring powers of a public nature on the corporate tation of boroughs by their council, shall include all cities, ports, cinque terms. corporate towns mentioned in the schedules to the act passed in ı year of the reign of King William the Fourth, intituled "An 5 & 6 W. 4, ›rovide for the Regulation of Municipal Corporations in England c. 76. ɛs," and all boroughs incorporated by charter granted or to be in pursuance of that or any subsequent act.

'his act shall not extend to Scotland or Ireland, and it shall not Limits of ed by any place within the limits of the metropolis as defined for act. ›oses of the act of the session holden in the eighteenth and nine- ears of her present Majesty, intituled "An Act for the better 18 & 19 Vict. ınagement of the Metropolis" (*a*). c. 20.

his act shall be construed together with and be deemed to form Provisions the Public Health Act, 1848: words used in this act shall be of this act ɔed in the sense assigned to them in the said Public Health Act: and 11 & 12 framed under this act shall be subject to confirmation, enforced, Vict. c. 63, to be con- lt with in all other respects as byelaws under the said Public strued Act; and the provisions of each of the said acts shall, so far as together. consistent with the provisions of this act, respectively be applicable ıtters and things arising under the other act (*b*).

ıis act shall take effect from the first day of September one thou- Period at ht hundred and fifty-eight in places where the Public Health Act, which this ı already in force, wholly or partially: provided always, that act to take effect. in this act shall affect the qualification and number of the mem- Not to ocal boards of health in such places, or any power, right, privilege, affect quali- ity of any board of improvement commissioners exercising powers fication or ?ublic Health Act, 1848, or of any town council or local board of powers of ınder or by virtue of any general or local act of parliament other local boards. ı said Public Health Act.

ocal boards under this act shall, subject to this act, have all the Powers, &c., rights, duties, and liabilities of local boards of health constituted of local ıe Public Health Act, 1848, and the acts incorporated therewith. boards under this act to be the same under 11 & 12 Vict. c. 63, &c.

In the construction, for the purposes of this act, of the acts Construc- ter incorporated, the expression "the special act" shall mean tion of lic Health Act, 1848, as brought into operation within the district, terms, for ı act; the "limits of the special act" shall mean the "limits of purposes of rict;" "the passing of the special act" shall mean the date of the this act, &c., in acts in force of this act, or, in the case of districts under the Public herein-after

(*a*) See this act, p. 343. (*b*) See note p. 20.

21 & 22 Vict. c. 98. Incorporated.

Health Act, 1848, the first day of September one thousand eight hundred and fifty-eight; and the local board shall, according to the tenor of the incorporated act, be deemed to be the promoters of the undertaking, "town commissioners," commissioners, or "undertakers;" and all penalties incurred under the incorporated acts shall be recovered in the same way as penalties incurred under the Public Health Act, 1848, and be applied in aid of the purposes of that act and this act.

Provision in relation to exercise of powers under public health act requiring sanction of general board of health.

VIII. Whenever the sanction, consent, direction, or approval of the general board of health is required by law to the exercise of the powers of local boards of health or boards of improvement commissioners, such powers may, from the first day of September one thousand eight hundred and fifty-eight, be exercised without such sanction, consent, direction, or approval, or any sanction, consent, direction, or approval in lieu thereof, except in so far as is provided by this act: provided always, that all sanctions for the mortgage of rates given by the general board of health before the passing of this act shall continue in full force and effect until all monies the borrowing of which is thereby sanctioned have been borrowed.

Proceedings, contracts, &c., begun or made under any section of 11 & 12 Vict. c. 63, repealed by this act may be proceeded with.

IX. All proceedings, contracts, matters, and things respectively begun or made under any section of "The Public Health Act, 1848," repealed by this act, may respectively be proceeded with and enforced as if no such repeal had taken place, and all powers exercised or byelaws made under any such section shall continue in force until the new powers and byelaws authorised by this act are brought into operation, and no such repeal shall affect any decree or order of the High Court of Chancery, or of any other court of justice, that has been obtained previously to the passing of this act.

Powers of sect. 114, of 11 & 12 Vict. c. 63, for appointment of receiver, may be exercised in event of failure to elect a local board.

X. The powers of the one hundred and fourteenth section of "The Public Health Act, 1848," for the appointment of a receiver, may be exercised in the event of a failure to elect a local board, or of the lapse of a local board from death, resignation, disqualification, or otherwise, of the persons elected to serve on such local board; and in case of such failure or lapse any receiver appointed under that section may make as well as collect and receive rates as directed in that section, or such rates as are required to satisfy all liabilities of the local board, and may receive and recover all arrears due to the said local board, and apply the same to meet such liabilities; and any such receiver shall have the same powers with respect to other creditors of the local board as he has by the said section with regard to mortgagees.

Course of proceeding in event of failure to elect a local board.

XI. In the case of any failure to elect a local board, or of any lapse of a local board as aforesaid, it shall be lawful for the owners and ratepayers of the district, by resolution, as hereinafter provided, for the adoption of this act, to proceed to election of a new local board in the manner provided by this act, with the same qualification of members from property or rating as the lapsed local board, and the result of such election shall be signified to one of her Majesty's principal secretaries of state by the person conducting it, in the same manner as is hereinafter directed with regard to the adoption of this act; and all the rights and liabilities of the former local board shall attach to the new local board as if there had been no lapse before the election thereof, and from the date of such election all powers of any receiver to make rates under the preceding section shall determine.

As to adoption of act and constitution of local board.

Act to be adopted by resolution of council, improvement commissioners, or owners and ratepayers.

XII. This act may be adopted,

(1.) In corporate boroughs to which the Public Health Act, 1848, has not been applied, by a resolution of the council assembled at a meeting held for the purpose: provided always, that this act shall not be adopted in corporate boroughs until after the election of councillors on the first day of November one thousand eight hundred and fifty-eight:

(2.) In other places under the jurisdiction of a board of improvement commissioners, where all or part of the commissioners are elected by ratepayers, or by owners and ratepayers, by a resolution of such improvement commissioners assembled at a meeting held for the purpose:

(3.) In all other places having a known or defined boundary, by a resolution of the owners and ratepayers:

But no such resolution passed by any council or board of improvement commissioners shall be valid unless a month's previous notice of the meeting, and of the purpose thereof, has been given in manner in which notices of meetings of such council or board of commissioners are usually given, nor unless two-thirds of the members present at the meeting concur in the resolution for such adoption; and it shall be lawful for the chairman of any such meeting, with the consent of a majority of the members present, to adjourn the same from day to day.

As to summoning meetings for purpose of preceding section.

XIII. (1.) Meetings for the purpose of the preceding section shall be ımmoned on the requisition in writing of any twenty ratepayers or vners;

In corporate boroughs, by the mayor;

In other places under the jurisdiction of such improvement commissioners as aforesaid, by the chairman of the said commissioners;

In places having known and defined boundaries, not being corporate boroughs, or towns under the jurisdiction of such improvement commissioners as are hereinbefore mentioned, by the churchwardens or one of them, or if there are no churchwardens the overseers or one of them, or if there is none of the officers respectively above enumerated, or if such officer in any case neglects, is unable, or refuses to perform the duties hereby imposed on him, by any person appointed by one of her Majesty's principal secretaries of state:

(*Sic.*)

Notice of meeting.

(2.) In such places as last aforesaid the summoning officer shall upon ich requisition fix a time and place for holding such meeting, and shall rthwith give notice thereof:

By advertisement in some one or more of the newspapers circulated in the place;

By causing such notice to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed:

Meeting to choose chairman.

(3.) The meeting, on its assembling together, shall choose one of its ımber as chairman, who may, with the consent of a majority of the rsons present, adjourn the same from day to day:

Rules as to passing of resolutions of owners and ratepayers.

(4.) The chairman shall propose to the meeting the resolution for the loption of the act, and the meeting shall decide for or against such adoption: provided that if any owner or ratepayer shall demand that such estion be decided by a poll of the owners and ratepayers, such poll shall taken by voting papers in the form A. given in the schedule to this act, the same way, and with the same conditions as to notice of voting, livery, filling up, collection, examination, declaration of the result, stody of voting papers, penalty for neglect or refusal to comply with e provisions of the act, scale of votes, and in all other respects whatsoer as is provided in the Public Health Act, 1848, in respect of the ection of local boards of health; and if no poll is demanded, or if the mand for a poll is withdrawn by the parties making the same, a declaraon by the chairman shall, in the absence of proof to the contrary, be fficient evidence of the decision of such meeting:

Penalty for forging, &c., of voting papers.

(5.) If any person fabricates, in whole or in part, alters, defaces, stroys, abstracts, or purloins any voting paper, or personates any person ntitled to vote in pursuance of the Public Health Act, 1848, or this act, r falsely assumes to act in the name or on the behalf of any person so ntitled to vote, or interrupts the distribution of any voting papers, or

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distributes the same under a false pretence of being lawfully authorised to do, he shall for every such offence be liable, on conviction before two justices, to be imprisoned in the common gaol or house of correction for any period not exceeding three months, with or without hard labour.

Provision as to less place included within the limits of a greater.

XIV. In cases where any place hereby authorised to adopt this act includes within its limits any less place which, if it were not so included, would of itself be authorised to adopt this act, such less place shall not be entitled to adopt this act unless the greater place within the limits of which it is included has refused to adopt the same, or unless it has been determined by one of her Majesty's principal secretaries of state, in manner hereinafter mentioned, that such less place ought, as respects the adoption of this act, to be excluded from the limits of such greater place.

Power for partial adoption of act.

XV. Any corporation or body of commissioners exercising powers for sanitary regulations under the provisions of any local act may adopt any part or parts of this act (*a*) by resolution of the council or commissioners, and such resolution shall in every case be passed and forwarded to one of her Majesty's principal secretaries of state, as provided in this act for the adoption thereof, and thereupon the part or parts of this act named in such resolution shall be in force within the district comprised in such local act as fully and effectually as if such part or parts of this act had been enacted in such local act: provided always, that when the parts of this act thus adopted confer any power of borrowing money, such power shall be exercised subject to the provisions of this act with respect to borrowing.

*Adoption of act by place not having a known or defined boundary.*

XVI. (1.) Any place not having a known or defined boundary may petition one of her Majesty's principal secretaries of state to settle its boundary for the purposes of this act:

Provision as to settling boundaries on petition.

Rules as to petitions for settlement of boundaries.

(2.) The petition shall state the proposed boundaries of the place, shall be signed by one-tenth of the ratepayers resident within such boundaries, and shall be supported by such evidence as the said secretary of state may require:

(3.) Upon the receipt of such petition the secretary of state may direct inquiry to be made as to the genuineness of the petition, and as to the propriety of the proposed boundaries; and

(4.) Fourteen days' notice of the time, place, and subject of such inquiry shall be given in the place to which it refers:

(5.) The said secretary of state may, upon consideration of the matter, either dismiss the petition altogether, or make order as to the boundaries of the place (*b*): he may also make order as to the costs of the proceedings under this section and the parties by whom such costs are to be borne:

Any place may adopt this act when boundary settled.

(6.) Any place the boundaries of which have been settled in pursuance of the foregoing provisions shall thenceforth, for the purposes of this act, be deemed to be a place with a known and defined boundary, and may adopt this act accordingly; and for the purpose of enabling it so to do a summoning officer shall be appointed by the order settling the boundaries, whose duty it shall be forthwith to take all such steps as may be necessary for convening a meeting of the ratepayers to decide as to the adoption of this act; and if such officer dies, becomes incapable, neglects or refuses to perform his duties, the said secretary of state may, on the application of any four ratepayers, appoint another officer in his room.

*Appeal against adoption of act.*

XVII. (1.) In cases where a resolution adopting this act has been passed in any place, if any number, being not less than one twentieth of the owners and ratepayers of such place, such twentieth to be one twentieth in number of the owners and ratepayers of the place, taken together, or the

Power to

(*a*) Or the Public Health Act. See note, p. 20.

(*b*) The decision of the Secretary of State after due inquiry will not be reviewed by the court (*In re Todmorden District*, 30 L. J., Q. B. 305).

owners and ratepayers in respect of one twentieth of the rateable property in the place, are desirous that the whole or any part of such place should be excluded from the operation of this act, they may present a petition to one of her Majesty's principal secretaries of state, appealing against such resolution, and praying that such exclusion may be made:

*Petition, appeal, against resolution to adopt this act.*

(2.) Such petition shall be presented within twenty-one days from the date of the passing of the resolution appealed against, and shall where the exclusion of part of a place only is prayed for state,

*Such petition to be presented to secretary of state.*

(1.) The part of the place proposed to be excluded, accompanied with an explanatory plan; and

(2.) The reasons for such exclusion:

It shall be subscribed by the owners and ratepayers presenting the same:

(3.) Upon the receipt of any such petition as aforesaid, the said secretary of state may direct inquiry in the proposed district,

*Power to secretary of state to direct inquiry to be made.*

As to the genuineness of the petition; and

As to the matters alleged in such petition:

(4.) Fourteen days' notice of the time, place, and subject of such inquiry shall be given:

*Notice of inquiry.*

(5.) The said secretary of state shall make order with respect to the matter in question on such appeal, and such order shall be binding on the place in respect of which it is made, and there shall be stated in such order the time at which this act is to come into force.

*Order to be made by secretary of state.*

XVIII. It shall be lawful for any owner or ratepayer who disputes the validity of the vote for the adoption of this act to appeal within fourteen days from the declaration of the vote to one of her Majesty's principal secretaries of state, setting forth the grounds on which he disputes the invalidity of such vote, and it shall be lawful for any of her Majesty's principal secretaries of state, on such appeal, to direct inquiry by any officer employed by him in the execution of this act into the circumstances of the case, and to issue such order thereon as he may deem requisite to determine the questions arising on such appeal, and as to the validity or invalidity of such vote (*a*).

*Appeal to secretary of state in case of alleged invalidity of vote for adoption of this act.*

*General provisions in relation to adoption.*

XIX. Whenever a resolution adopting this act has been passed in any place, notice thereof shall be given to one of her Majesty's principal secretaries of state by the following persons; that is to say,

In corporate boroughs, by the mayor:

In other places under the jurisdiction of such improvement commissioners as aforesaid, by the chairman of the board of commissioners:

In other places, by the summoning officer:

*Notice as to adoption of act to be given to secretary of state.*

The notice so sent shall be in writing under the hand of the officer hereby required to give the same; and it shall be the duty of such last-mentioned officer to publish a copy of such notice in manner following; that is to say,

By advertisement for three successive weeks in some one or more of the newspapers circulated in the place:

By causing a copy of such notice to be affixed to the principal doors of every church and chapel in such place to which notices are usually affixed:

And when such notice has been so given, and the time for such appeal has expired, or such appeal has been dismissed, a notice shall be published in the London Gazette, by one of her Majesty's principal secretaries of state, that this act has been adopted within such place.

XX. Whenever any resolution adopting this act has been passed in any place this act shall, at the expiration of two months from the date of the passing of such resolution, or in the event of an appeal, or of a division of the district into wards as hereinafter provided, then, at such time as may be mentioned in the order made on such appeal, or in the order setting out

*Provision as to the time when this act shall take effect.*

(*a*) The order of the Secretary of State is conclusive on the question of the vote (*Ex parte Bird*, 28 L. J., Q. B. 223).

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wards, have the force of law within such place; and the expiration of such period of two months, or such date as may be mentioned in the said order as the time for this act to come into force, shall be called the date of the constitution of the district; provided that the provisions of this act relating to purposes already included in any local act in force within the district with relation to any of the purposes of the Public Health Act, 1848, or this act, and not conferring powers or privileges upon corporations, companies, undertakers, or individuals, for their own pecuniary benefit, notwithstanding the adoption of the act, as hereinbefore provided, shall not come into operation until an order has been made and confirmed, as hereinafter prescribed, for the future execution, repeal, or alteration of the said local act.

As to objections made to adoption of this act.

XXI. No objection shall be made at any trial or in any legal proceeding to the validity of the adoption of this act, or to any order made in pursuance of this act, or to any proceedings upon which such order was founded, unless the objector has given fourteen days' previous notice to the other parties interested in such trial or proceeding of his intention to make the same, specifying fully the nature of the objection to be made; and no objection whatever in respect of the matters mentioned in this section shall be admissible at any trial or in any legal proceeding after the expiration of six calendar months from the date of the constitution of the district.

Proof of adoption.

XXII. Publication of a notice by a secretary of state once in the London Gazette, and by the mayor, chairman of the board of improvement commissioners, or summoning officer, respectively, for three successive weeks in any newspaper published and circulated in the town or district that this act has been adopted in any place, shall be conclusive evidence of such adoption.

Provision as to payment of costs, &c., incurred in relation to adoption.

XXIII. In cases where this act has been adopted by any place, all costs, charges, and expenses incurred by any of her Majesty's principal secretaries of state, in relation to any such adoption, or to any proceedings connected therewith, or which such secretary is required to take under this act, and not hereby otherwise provided for, shall, to such amount as the treasury, by order, think proper to direct, become a charge upon the general district rates levied in such district under the authority of this act, and be repaid to the treasury by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such last-mentioned order, upon so much of the principal sum due in respect of the said costs, charges, and expenses as may from time to time remain unpaid.

*Constitution of local boards.*

XXIV. The duty of carrying into execution this act shall be vested in a local board; and such local board shall be,

Local boards how constituted.

(1.) In corporate boroughs, the mayor, aldermen, and burgesses acting by the council:

(2.) In other places under the jurisdiction of such a board of improvement commissioners as hereinbefore mentioned, the board of commissioners:

(3.) In other places, such number of elective members as may be determined by a resolution of the owners and ratepayers, passed in manner in which resolutions for the adoption of this act are hereinbefore directed to be passed, at any meeting held for the purpose of adopting this act, or at any meeting to be summoned by the summoning officer for the purpose of this section; but no person shall be qualified to be a member of such local board unless he is at the time of his election, and so long as he shall continue in office by virtue of such election, resident within the district for which or for part of which he is elected, or within seven miles thereof (*a*), and is seised or possessed of real or personal estate,

(*a*) As the crow flies, *R.* v. *Saffron Walden*, 9 Q. B. 76; *Lake* v. *Butler*, 5 E. & B. 92; *Jewell* v. *Stead*, 6 E. & B. 350; *Stokes* v. *Grissel*, 14 C. B. 678.

21 & 22 Vict. c. 98.

or both, to the value of not less than five hundred pounds in districts containing less than twenty thousand inhabitants, or to the value of not less than one thousand pounds in districts containing twenty thousand or more inhabitants, or rated to the relief of the poor of such district, or of some parish within the same, upon an annual value (*a*) of not less than fifteen pounds in districts containing less than twenty thousand inhabitants, or on an annual value of not less than thirty pounds in districts containing twenty thousand or more inhabitants; provided that if two or more persons be jointly seised or possessed of real or personal estate, or both, of such value or amount as would, if equally divided between them, qualify each to be elected, or if two or more persons be jointly rated in respect of any property which, if equally divided between them, would qualify each to be so elected, each of the persons so jointly seised, possessed, or rated may be elected, but the property shall not at the same time qualify the owner and the occupier thereof:

District may be divided into wards, with sanction of secretary of state.

(4.) Local boards of health in districts where the Public Health Act, 1848, is applied, may, with the sanction of one of her Majesty's principal secretaries of state, divide their district into separate wards, and declare what proportion of the members of the local board is to be elected by each ward: In districts where this act is adopted, the owners and ratepayers may by resolution direct a petition to one of her Majesty's principal secretaries of state to divide the district into wards, for the purpose of election of the local board, and to declare what proportion of the members of the local board shall be elected by each ward, and the said secretary of state may by his order make such division and declaration after such inquiry as he shall deem necessary, and fourteen days' notice shall be given of the time, place, and object of such inquiry; and if any member be elected in more than one ward, he shall within three days' notice thereof choose, or, in default of his choosing, the local board at their next meeting shall decide for which one of the wards the member shall serve, and he shall thereupon be held to be elected in that ward only, and a vacancy shall be held to exist on account of the other ward or wards; no person entitled to vote shall give in the whole of the wards a greater number of votes than he would have been entitled to give if the district had not been divided into wards, nor in any one ward a greater number of votes than he is entitled to in respect of property in that ward; but subject to these limitations, any ratepayer or owner may, by notice in writing delivered to the clerk of the local board, or in case of the first election to the person appointed to conduct that election, elect in what ward or wards he will vote for the ensuing year, and determine the proportion of votes which he will give in any one or more of such wards, and if he do not give such notice he shall not be entitled to vote for any ward in which he does not reside:

As to election of local boards.

(5.) The election of local boards shall be conducted in the manner directed by the Public Health Act, 1848, for the election of local boards of health; and the summoning officer shall conduct the first election; and the members of the local board shall take such declaration, continue in office for the same time, and be liable to such disqualifications and penalties, as the members of local boards of health under the said Public Health Act as altered by this act (*b*):

(*a*) Rateable value (*Baker* v. *Marsh*, 24 L. J., Q. B. 1).
(*b*) See 24 & 25 Vict. c. 61, s. 2, *post*.

21 & 22 Vict. c. 98.

(6.) If any person nominated, or any person on his behalf, give at least one clear day's notice in writing to the returning officer, before the delivery or collection of the voting papers, of an intention to send some agent to accompany the deliverer or collector of the papers, the returning officer shall make his arrangements so as to enable the person appointed by him to be so accompanied; provided that no such agent shall interfere in any respect in the delivery or collection of the voting papers:

As to casual vacancies.

(7.) Any casual vacancy occurring by death, resignation, disqualification, or otherwise in the local board may be filled up within one month by the local board out of qualified persons, but the member so chosen shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred:

As to first meeting of local board.

(8.) In the case of districts not consisting of boroughs or towns under the jurisdiction of such improvement commissioners as aforesaid, the first meeting shall be held on such day, not more than ten days after the election of the local board, and at such place, as the returning officer may, by notice sent by post or delivered to each member of such board, appoint.

Disqualification of members of local boards.

XXV. Notwithstanding anything contained in the Public Health Act, 1848,

(1.) No member of a local board shall vacate his office by reason of his being interested in any sale or lease of any lands, or any loan of money to the local board:

(2.) Nor by absenting himself from meetings of the board, if he be not absent from the district for more than six months at one and the same time, unless in case of illness, nor by reason of his being interested in any contract with the local board as a shareholder in any company established under the provisions of the Joint Stock Companies Acts or any of them, with or without a limited liability, provided no member of a local board, being a shareholder, shall vote on any question in which the company is interested:

(3.) It shall be lawful for one of her Majesty's principal secretaries of state to dispense in any case with the prohibition contained in the nineteenth section of the Public Health Act, 1848 (*a*), by which no member of a local board, being a shareholder in any company or concern established for the supply of water, or for the carrying on of any other works of a like public nature, is entitled to vote upon any question in which such company or concern is interested.

Powers of local board to vest in town council when a district becomes a corporate borough.

XXVI. So much of the thirty-third section of the Public Health Act, 1848 (*b*), as requires that a day shall be specified in any charter of incorporation by which the district of a local board becomes a corporate borough, from and after which the powers, authorities, duties, property, and liabilities of the local board shall be vested in the mayor, aldermen, and burgesses of the borough by their council, shall be repealed; and all transfers of powers, authorities, duties, property, and liabilities which have been or shall hereafter be made by any local board of health to the mayor, aldermen, and burgesses of any corporate borough by their council, the district of such board and such corporate borough being identical, shall be valid and effectual to all intents and purposes, though no day for such transfer shall have been named in the charter incorporating such borough.

Power to adjoining districts to unite, with sanction of secretary of state.

XXVII. Adjoining districts may unite together upon such terms and subject to such conditions as the respective local boards of such districts may, with the sanction of one of her Majesty's principal secretaries of state, determine.

Power to

XXVIII. Every local board may, with the consent of the local board of

(*a*) p. 255. (*b*) p. 260.

ny adjoining district, or with the consent of any adjoining place maintaining its own poor, do and execute in such adjoining district or place all r any of such works and things as the local board may do and execute within their own district, and upon such terms as to payment or otherwise s may be agreed upon between such local board and the local board of the djoining district, or the local authority under the Nuisance Removal Act, 855 (*a*), in and for such adjoining place; and any sums agreed to be paid y the local board of the adjoining district, in pursuance of this section, hall be payable out of the rates leviable under the Public Health Act, 848, and this act; and any sums agreed to be paid by such local authority shall be payable out of the same rates as the expenses of executing the aid Nuisance Removal Act; and the consent of any such place to any work or thing proposed to be done under this section shall be signified in he same manner in which the consent of a place to the adoption of this ct is hereinbefore required to be signified; and where the expenses of any uch work or thing would, if the same had been executed in a district nder the powers of this act, have been recoverable from owners or occuiers, such expenses shall be recoverable by the local board or local authority of the district or place respectively from such owners or occupiers.

*Local board to execute works in adjoining places.*

As to powers of local boards.

XXIX. If it appear to a local board that any premises were sufficiently rained before the construction of any new sewer they may lay down, it hall be lawful to deduct from the amount of rates otherwise chargeable in espect of such premises such a sum and for such time as the local board ay under all the circumstances of the case deem to be just.

*Powers of local board as to sewerage.*

Power to make deduction from rate in respect of premises sufficiently drained.

XXX. Local boards may,

Powers for disposing of sewage.

(1.) Exercise the powers given by the forty-sixth section of the Public Health Act, 1848 (*b*), also without their district, if necessary for the purpose of outfall and distribution of sewage (*c*), upon making due compensation, to be settled in the manner provided in the one hundred and forty-fourth section of the Public Health Act, 1848 (*d*);

(2.) Contract with any company or person for the sale of sewage, or for the distribution of it over any land;

(3.) Contract for, purchase, or take on lease any lands, buildings, engines, materials, or apparatus, for the purpose of receiving, storing, disinfecting, or distributing sewage:

rovided always, that these things shall be done so as not to create a uisance.

XXXI. In case any watercourse or open ditch lying near to or forming he boundary between the district of any local board and any adjoining arish or place shall be foul and offensive, so as injuriously to affect the istrict of such local board, any justice of the peace for the county, city, r borough in which such adjoining parish or place may be situate may, on he application of such local board, summon the local authority for the urposes of the Nuisances Removal Act, 1855, of such adjoining parish or lace, to appear before the justices of the same county, city, or borough, to ow cause why an order should not be made by the said justices for leansing such watercourse or open ditch, and for executing such permaent or other structural works as may appear to such justices to be necesry; and such justices, after hearing the parties, or *ex parte* in case of he default of any of them to appear, may make such order with reference the execution of the works, and the persons by whom the same shall be xecuted, and by whom and in what proportions the costs of such works hall be paid, and also as to the amount thereof, and the time and mode

Provision for obtaining order for cleansing foul and offensive watercourses or open ditches lying near to or forming the boundaries of districts.

(*a*) See this act, p. 419; also "Constitution of Local Authorities," p. 27.
(*b*) p. 264. (*c*) See note, p. 34, *Hayward* v. *Lowndes*. (*d*) p. 295.

21 & 22 Vict. c. 98.

of payment, as to such justices shall seem reasonable; and any sums ordered to be paid by any justices in pursuance of this section shall be a charge upon and be payable out of the poor rates of such adjoining parish or place, as if the same were legally incurred in the relief of the poor of such parish or place, and in default of payment may be levied upon the goods and chattels of such overseers by distress and sale thereof.

*Powers as to scavenging and cleansing.*

XXXII. The fifty-fifth and fifty-sixth sections of the Public Health Act, 1848 (*a*), shall be repealed, excepting so much of the fifty-sixth section as relates to the providing conveniences for the temporary deposit of dust, ashes, and rubbish, and also fit buildings and places for the deposit of sewage and other matters collected by the local board; and in lieu thereof be it enacted,

Power to local boards to cleanse or contract for cleansing.

(1.) That local boards may themselves undertake or contract with any person for

The proper cleansing and watering of streets;

The removal of house refuse from premises;

The cleansing of privies, ashpits, and cesspools;

either for the whole or any part of their district; and all matters thus collected by the local board or contractor may be sold or otherwise disposed of, and any profits thus made by the local board shall be carried to the district fund account:

(2.) If any person, not being the occupier of a house within the district, removes, or obstructs the local board or contractor in removing, any matters hereby authorised to be removed by the local board, he shall for each offence incur a penalty not exceeding five pounds; and if any person, being the occupier of a house within the district, removes, or obstructs the local board or contractor in removing, any such matters (except in cases where such matters are produced on his own premises, and are removed for sale, or for his own use for manure, and are in the meantime kept so as not to be a nuisance), he shall for each offence incur a penalty not exceeding forty shillings:

(3.) In parts where the local board do not themselves undertake or contract with any person for—

The cleansing of footways and pavements adjoining any premises,—

The removal of refuse from any premises,—

The cleansing of privies, ashpits, and cesspools,—

They may make byelaws imposing the duty of such cleansing or removal on the occupier of any such premises:

Power to local board to make byelaws as to nuisances.

(4.) The local board may make byelaws for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish within their district, or of the keeping of animals so as to be injurious to the public health (*b*);

Provision for recovery of expenses of removal of offensive accumulations under 11 & 12 Vict. c. 63.

(5.) Whenever the local board have removed any noxious or offensive accumulation under the fifty-ninth section of the Public Health Act, 1848 (*c*), the expenses of removal, so far as the same are not covered by the sale of the said accumulation, shall be recoverable in a summary manner from the occupier, or, where there is no occupier, from the owner of the premises on which such accumulation existed, or from the person causing such accumulation, or may, by order of the board, be declared to be private improvement expenses.

Amendment of sect. 54, of 11 & 12 Vict. c. 63, for purposes herein named.

XXXIII. Whenever the surveyor, in the course of any examination made by him in pursuance of the fifty-fourth section of the Public Health Act, 1848 (*d*), finds any such drain, watercloset, privy, cesspool, or ashpit, as therein mentioned, to be in bad order and condition, or to require alteration, it shall not be necessary for him to cause the ground to be closed before the necessary works are set about for amending such drain, watercloset, privy, cesspool, or ashpit; provided that such necessary works are undertaken forthwith.

(*a*) p. 268. (*b*) See suggested forms for byelaws, *post*.
(*c*) p. 268. (*d*) p. 267.

21 & 22 Vict. c. 98.

XXXIV. The fifty-third and seventy-second sections of the Public Health Act, 1848 (*a*), shall be repealed; and in lieu thereof be it enacted as follows:

Sects. 53 and 72 of 11 & 12 Vict. c. 63, as to new streets and houses repealed and the provisions herein named to be instead.

Every local board may make byelaws with respect to the following matters (*b*); (that is to say,)

(1.) With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof;

(2.) With respect to the structure of walls of new buildings for securing stability and the prevention of fires;

(3.) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings;

(4.) With respect to the drainage of buildings, to waterclosets, privies, ashpits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

and they may further provide for the observance of the same by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the local board, and as to the power of the local board to remove, alter, or pull down any work begun or done in contravention of such byelaws: provided always, that no such byelaw shall affect any building erected before the date of the constitution of the district (*c*):

But for the purposes of this act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the frame work shall be left down to the ground floor, or the conversion into a dwelling house of any building not originally constructed for human habitations, or the conversion into more than one dwelling house of a building originally constructed as one dwelling house only, shall be considered the erection of a new building.

*Powers for regulation of buildings.*

When houses taken down, local board may prescribe line in which same shall be rebuilt.

XXXV. When any house or building has been taken down, in order to be rebuilt or altered, the local board may prescribe the line in which any house or building to be hereafter built shall be erected, and the same shall be erected in accordance therewith (*d*); and the local board shall pay or tender compensation to the owner or other person immediately interested in such house or building for any loss or damage he may sustain in consequence of his house or building being set back, the amount of such compensation, in case of dispute, to be settled in the same manner as compensation for land to be taken under the provisions of "The Lands Clauses Consolidation Act, 1845," is directed to be settled; and all the provisions of the said last-mentioned act relating to the purchase of lands shall apply to the payment made for such loss or damage as if it were a purchase under such act (*e*).

Local board may purchase premises for purpose of making new streets.

XXXVI. The local board may, with the sanction of one of her Majesty's principal secretaries of state, purchase any premises for the purpose of making new streets, and shall have with regard to premises so purchased all the powers given by the seventy-third section of the Public Health Act, 1848 (*f*).

*Highway repairs.*

Cost of highway repair to be defrayed out of general district rate in certain cases.

XXXVII. And whereas doubts have arisen as to the rate out of which the repair of highways is to be provided for in districts under the Public Health Act, 1848 (*g*): be it enacted, that in such districts, or in districts where this act is adopted, and where no other mode of providing for the repair of highways is directed by any local act,

(1.) Where the whole of the district is rated to public works of paving,

(*a*) p. 267. (*b*) See suggested forms for byelaws, *post*.
(*c*) See note, p. 77, *Shiel* v. *Mayor of Sunderland*. (*d*) See 24 & 25 Vict. c. 61, s. 28, *post*.
(*e*) See note, p. 118. (*f*) p. 273. (*g*) See note, p. 71.

21 & 22 Vict. c. 98.

water supply, and sewerage, or to works for such of these purposes as are provided for in the district, the cost of repair of highways shall be defrayed out of the general district rate :

Power to levy highway rates in certain cases.

(2.) Where parts of a district are not rated for works of paving, water supply, and sewerage, or for such of these purposes as have been provided for by rate in the district, the cost of the repair of highways in the same parts shall be defrayed out of a highway rate to be separately assessed and levied in the same parts by the local board as surveyor of highways, and the cost of such repair in the residue of the district shall be defrayed out of the general district rate :

(3.) Where no public works of paving, water supply, and sewerage are established in the district, the repair of highways in the district shall be provided for by a highway rate, to be levied over the whole district by the local board as surveyors of highways :

(4.) *Where part of any township or place, at the time of the application of this act to any district, shall be liable to contribute and pay to the highway rates leviable or assessable within such district, although it shall not be included in the limits of such district, such part of the said township or place shall, for all purposes connected with the repairs of highways, and the payment of highway rates, but for no other purposes, be considered to be and be treated as if forming part of such district and comprised within the limits thereof : provided always, that no such district rate shall be leviable within such part* (a) :

Certain acts not required to be done in case of highway rate being made by local board.

(5.) Provided, that it shall not be necessary for any local board, in the case of any highway rate made by them, to do the following acts or any of them ; that if to say,

To lay such rate before any justices, or obtain their allowance ;

To annex thereto the signature of such local board ;

To lay the same before the parishioners assembled in vestry ;

To verify before any justices any accounts kept by them of such highway rates :

and all such accounts shall be audited in all respects in the same way as the other accounts of local boards, and all ministerial acts required by any act of parliament to be done by the surveyor of highways may be done by the surveyor of the local board, or by such other person as they may appoint :

Application of surplus under sect. 117 of 11 & 12 Vict. c. 63.

(6.) The surplus of any monies directed by the one hundred and seventeenth section of the Public Health Act, 1848 (b), to be paid by surveyors of highways to the treasurer of the local board, and to be carried to the district fund account, shall, for every district or part of a district where the roads are repaired out of highway rate, be carried by the same treasurer to a separate account to be kept by him, and called the highway rate account. The act of the thirteenth Victoria, chapter thirty-five, "for requiring annual returns of the expenditure on highways in England and Wales to be transmitted to the secretary of state, and afterwards laid before parliament," shall apply to the clerk to every such local board as aforesaid in like manner as to the clerk to any such trustee or commissioner as in such act mentioned.

*Powers as to streets and roads.*

XXXVIII. The powers given to local boards of health by the sixty-ninth and seventieth sections of the Public Health Act, 1848 (c), to compel the sewering, levelling, paving, flagging, and channelling of streets that are not highways repairable at the public expense, and after the completion of such works to declare such streets highways repairable at the public expense, shall extend to providing the means of lighting, metalling, or making good such streets, and may be exercised in respect of the carriageway, footway, or any part of such streets ; and the said powers

Power to local board to provide for sewering, &c., of parts of

(a) See 24 & 25 Vict. c. 61, s. 9, *post.* (b) p. 285.
(c) p. 268.

shall also be deemed to have extended and shall extend and be exercised in respect of any street or road of which a part was at the time of the application of the Public Health Act, 1848, or is or may be, a public footpath, or repairable at the public expense, as fully as if the whole of such street or road had been or was a highway not repairable at the public expense (*a*).

streets not being highways.

No incumbent or minister of any church, chapel, or place appropriated to public religious worship, which is now by law exempt from rates for the relief of the poor, shall be liable to any expenses under the sixty-ninth section of the Public Health Act, 1848, or this section, as the owner or occupier of such church, chapel, or place, or of any churchyard or burial ground attached thereto, nor shall any such expenses be deemed to be a charge on such church, chapel, or other place, or on such churchyard or burial ground, or to subject the same to distress, execution, or other legal process; and the local board may, if they think fit, undertake any works from the expenses of which any such incumbent or minister is hereby exempted.

No incumbent or minister of any church, chapel, &c., liable to expenses under sect. 69 of 11 & 12 Vict. c. 63, or this section.

XXXIX. It shall be lawful for any local board to agree with any persons for the making of roads for the public use through the lands and at the expense of such persons, and to agree that such roads shall become and the same shall accordingly become, on completion, public highways maintainable and repairable at the public expense (*b*); and it shall be lawful for such board, with the consent of two-thirds of their number, to agree with such persons to pay, and accordingly to pay, any portion of the expenses of making such roads out of the funds at the disposal of such board for public improvements.

Power to local boards to agree as to making of new public roads.

XL. It shall be lawful for any local board to agree with the proprietors of any canals, railways, or tramroads, and with any landowners or other persons willing to bear the first expense thereof, for the construction or alteration of, and accordingly to cause or permit to be constructed or altered, any bridges, viaducts, or arches over or under any such canals, railways, or tramroads, at the expense of such persons, and at the like expense, by agreement, to purchase so much of any slopes, embankments, or other parts of such canals, railways, or tramroads, or of any adjoining lands, as may be required for the foundation and supports of such bridges, viaducts, or arches, and the approaches thereto, and to agree that such bridges, viaducts, and arches respectively, with their approaches and accessories, shall become, and the same shall accordingly become on completion, parts of public streets or roads maintainable and repairable at the public expense; and it shall be lawful for such board, with the consent of two-thirds of their number, to agree to pay, and accordingly to pay, any portion of the expenses of such construction, alteration, and purchase out of the funds at the disposal of such board for public improvements; and it shall be lawful for such board, with the consent of such proprietors and other persons interested, and on such terms as may be mutually agreed upon, to adopt any existing bridges, viaducts, or arches over or under any such canals, railways, or tramroads, and the approaches thereto, as public bridges, viaducts, or arches, and parts of public streets or roads maintainable and repairable at the public expense.

Power to local boards, by consent, to construct public bridges, &c., or adopt as public, and improve existing bridges, &c., over or under canals, railways, or tramroads.

XLI. It shall be lawful for any local board, by agreement with the trustees of any turnpike road, or with any corporation or person liable to repair any street or road, or any part thereof, or with surveyors of any bridge repaired by any county, riding, or division, to take upon themselves the maintenance, repair, cleansing or watering of any such street or road or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said roads within their district, and to remove any turnpike gates, toll gates, or bars which may be

Powers to local boards to enter into agreements with turnpike trustees as to repair, &c., of roads.

(*a*) See 24 & 25 Vict. c. 61, s. 16, *post*.
(*b*) See 26 Vict. c. 17, s. 6, *post*.

21 & 22 Vict. c. 98.

situate within two miles from the centre of any town or place within their district, and to erect other turnpike gates, toll gates, or bars in lieu thereof, on such terms as the local board and the trustees or corporation or person or surveyor aforesaid may agree upon between themselves; provided that in case any mortgage debt is charged upon the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two-thirds in value of the mortgagees; and that when the terms arranged shall include any annual or other payments from the local board to the trustees, then such payments may be secured on the local rates in the same manner as other charges on the rates are authorised by this act; provided also, that all executors, administrators, guardians, trustees, and all committees of the estates of idiots and lunatics, who as such are for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof, and all executors, administrators, guardians, trustees, and committees so consenting are hereby severally indemnified for so doing.

Objections under sect. 70 of 11 & 12 Vict. c. 63, to be made by the sole proprietor, or, if more than one, by a majority.

XLII. And whereas by the seventieth section of the Public Health Act, 1848 (a), it is provided that no street shall become a highway, under the provisions of such section, if within one month after notice in writing shall have been first put up as therein mentioned the proprietor of such street, or the person representing or entitled to represent such proprietor, shall, by notice in writing to the local board, object thereto; and doubts have arisen as to the effect of such provision: be it enacted, that no such objection shall be of force unless made either by the sole proprietor, or (if more than one) by the majority in number of such proprietors, and in ascertaining such majority joint proprietors shall be reckoned and considered one proprietor.

Certain roads herein named not to be interfered with, except upon conditions, &c., herein named.

XLIII. Notwithstanding anything contained in the Public Health Act, 1848, or this act, it shall not be lawful for any local board to open or in any way disturb any of the public roads or footpaths under the charge of the commissioners of the metropolis turnpike roads north of the Thames, or of the New Cross turnpike roads, or of the trustees acting in execution of the Surrey and Sussex Roads Act, 1850, except upon the conditions and subject to the regulations hereinafter contained; that is to say,

(1.) The local board shall leave at the office of the commissioners or trustees of such road seven days' previous notice, containing full particulars of any works intended to be executed by them, and affecting any of such roads:

(2.) If the general surveyor of the said commissions or trustees directs the works to be on any particular part of such roads the local board shall be bound to obey such directions:

(3.) Except by the permission of the said commissioners or trustees, the traffic of any of the said roads shall not at one time be stopped or in any way hindered along more than half of its width, nor, if the half left open is of less than the clear width of fourteen feet, along more than one hundred yards in length; and no alteration shall be made in the inclination of any of the said roads of more than one foot in sixty feet:

(4.) All works shall be done under the superintendence of the general surveyor; and all such precautions as he may direct for the protection and convenience of the public shall be taken by and at the expense of the party doing the works, and in default the said surveyor shall cause to be done in that behalf what he may think proper; and the party doing the works shall in all cases of damage

(a) p. 272.

21 & 22 Vict. c. 98.

occurring by reason of such works, and whether such precautions are or not taken, be answerable to the person suffering such damage, the said commissioners or trustees being hereby absolved from all liability in respect of the consequences of such works:

(5.) The party doing the works shall, as regards every road opened or disturbed, restore the same to its original state as to surface and materials, and, in order to meet the expenses consequent upon the subsidence of materials newly filled in, shall repay to the said commissioners or trustees, on demand, such sum as they have expended in restoration of the road, not exceeding one shilling for every superficial square yard, and, so far as the works affect the same, shall make good all drainage, paving of water channels, curbs of footpaths, and other matters and things connected with the maintenance of the said roads; and on default the said surveyor may cause to be done in that behalf what he may think fit; and the said surveyor may recover the expense so incurred by him in a summary manner.

*Incorporated powers.*

XLIV. The provisions of "The Towns Police Clauses Act, 1847,"

(1.) With respect to obstructions and nuisances in the streets,

(2.) With respect to fires,

(3.) With respect to places of public resort,

(4.) With respect to hackney carriages,

(5.) With respect to bathing,

Shall be incorporated with this act (*a*).

Certain provisions of 10 & 11 Vict. c. 89, incorporated with this act.

XLV. The provisions of "The Towns Improvement Clauses Act, 1847," with respect to the following matters, that is to say,

(1.) With respect to naming the streets and numbering the houses,

(2.) With respect to improving the line of the streets and removing obstructions (*b*),

(3.) With respect to ruinous or dangerous buildings,

(4.) With respect to precautions during the construction and repair of the sewers, streets, and houses,

(5.) With respect to the supply of water, except the proviso thereto,

(6.) With respect to the prevention of smoke,

(7.) With respect to slaughter-houses,

(8.) With respect to clocks (*c*),

Shall be incorporated with this act, subject to this qualification, that the above-mentioned provisions with respect to the prevention of smoke shall not extend to compel the consumption of all smoke in the case of all or any of the processes following; that is to say, to the coking of coal, the calcining of ironstone or limestone, the making or burning of bricks, earthenware, quarries, tiles, or pipes, the raising of any mines or minerals, the smelting of iron ores, the refining, puddling, shingling, and rolling of iron or other metals, or to the melting and casting of iron into castings, or to the manufacture of glass, in any district where the provisions of the said act for the prevention of smoke are not now in force, in which the local board shall resolve that any one or more of such processes should be exempted from penalties for not consuming all smoke for any time specified in such resolution, not exceeding ten years, which may be annually renewed for a similar or any shorter period, if the board shall think fit; and any justice or justices before whom any person shall be summoned may remit the penalty in any case within such district in which he or they shall be of opinion that such person has adopted the best known means for preventing any nuisance from smoke, and has carefully attended to the same, so as to consume, as far as possible, the smoke arising from any process so exempted during such time as any such resolution shall

Certain provisions of 10 & 11 Vict. c. 34, incorporated with this act.

(*a*) See these clauses at length, p. 234.

(*b*) See 24 & 25 Vict. c. 61, s. 11, *post*. (*c*) See these clauses, p. 223.

21 & 22 Vict. c. 98.

extend to, unless an order shall be issued by one of her Majesty's principal secretaries of state directing that such exemption shall no longer be continued in such district to such processes or any of them, after a time specified in such order.

Watching and lighting act (3 & 4 W. 4, c. 90) to be superseded by this act.

XLVI. In any district where the Public Health Act, 1848, is in force, or where this act is adopted, and in which the act passed in the third and fourth years of the reign of king William the Fourth, intituled "An Act to repeal an act of the eleventh year of his late Majesty king George the Fourth, for the Lighting and Watching of Parishes in England and Wales, and to make other provisions in lieu thereof," has been adopted, the said last-mentioned act shall be superseded by this act, and all lamps, lamp posts, gas pipes, fire engines, hose, and other property vested in the inspectors for the time being under the said act, shall, in all existing districts under the Public Health Act, 1848, and elsewhere upon the adoption of this act, vest in the local board (*a*).

Where vestries adopt provisions of 9 & 10 Vict. c 74, local board to be the commissioners under that act.

XLVII. In any district where a vestry adopts the act passed in the tenth year of the reign of her present Majesty, chapter seventy-four, and intituled "An Act to encourage the establishment of Public Baths and Washhouses (*b*)," the local board may, at the option of the said vestry, be the commissioners for the execution of the said act, and shall thereupon have all the powers, duties, rights, and obligations of commissioners under the said act; and all expenses incurred by the local board in carrying into execution the powers given to them by the said act shall be defrayed out of general district rates, and all receipts by them by reason of the exercise of such powers shall be carried to the district fund account.

Sections of 11 & 12 Vict. c. 63, as to slaughter-houses repealed.

XLVIII. The sixty-first and so much of the sixty-second sections of the Public Health Act, 1848 (*c*), as empowers the local board to make bye-laws with respect to all slaughter-houses, shall be repealed.

Local board to be burial board of district, though the burial ground be provided for parts of the district only.

XLIX. In any district where a vestry of any one or more parish or place comprised therein having a known or defined boundary adopts (*d*) the act passed in the twentieth and twenty-first year of the reign of her present Majesty, chapter eighty-one, and intituled "An Act to Amend the Burial Acts," the local board may, at the option of such vestry, be the burial board for the execution of the said act within such parish or parishes, place or places, so adopting the act as aforesaid, and shall thereupon have all the powers, duties, rights, and obligations of a burial board under the said act; and all expenses incurred by the local board in carrying into execution the powers given to them by the said act shall be defrayed out of rates to be levied on such parish or parishes, place or places, so adopting the act as aforesaid, in the same manner as general district rates are to be levied under the provisions of this act; and all receipts by them, by reason of the exercise of such powers, shall be carried to the credit of such parish or parishes, place or places so adopting the act as aforesaid: provided nevertheless, that in case the parish or parishes, place or places comprised in such district so adopting the act as aforesaid shall have been declared a ward or wards for the election of members of the local board, and members shall have been elected by and for such ward or wards, the last-mentioned members shall form the burial board for such parish or parishes, place or places so formed into a ward or wards as aforesaid, instead of the members of the said local board, and shall have all the like powers, duties, rights, and obligations of the burial board under said act of the twentieth and twenty-first years of the reign of her present Majesty, chapter eighty-one.

(*a*) See note, p. 115. (*b*) See this act, p. 207. (*c*) p. 269.
(*d*) This section is inoperative. For the provisions of the Burial Acts, and the manner in which Burial Boards are appointed in general, and in which Local Boards of Health may be so appointed, see "Burial Grounds," *ante*, p. 87, *et seq.*

21 & 22 Vict. c. 98.

L. The local board shall in non-corporate districts, with the consent of the owners and ratepayers of the district, to be expressed by resolution in the manner herein provided with respect to resolutions for the adoption of this act, and in corporate districts shall, with the consent of two-thirds of the local board, have the power to do the following things or any of them within their district:

Power of local board to establish markets with consent of owners and ratepayers.

(1.) To provide a market place, and construct a market house and other conveniences, for the purpose of holding markets:
To provide houses and places for weighing carts:
To make convenient approaches to such market:
To provide all such matters and things as may be necessary for the convenient use of such market:
To purchase or take on lease land, and public or private rights in markets, and tolls, for any of the foregoing purposes:
To take stallages, rents, and tolls in respect of the use by any person of such market house (*a*):

But no market or slaughter-house shall be established in pursuance of this section so as to interfere with any rights, powers, or privileges enjoyed within the district by any person, chartered joint stock or incorporated company, without his or their consent:

Provisions of 10 & 11 Vict. c. 14, as to markets, &c., incorporated.

(2.) For the purpose of enabling any local board to establish markets in manner aforesaid, or to regulate markets already established in any corporate borough before the constitution of a local board therein, there shall be incorporated with this act the provisions of "The Markets and Fairs Clauses Act, 1847," in so far as the same relate to markets:
With respect to the holding of the market or fair, and the protection thereof: and
With respect to the weighing goods and carts; and
With respect to the stallages, rents, and tolls; and
With respect to byelaws (*b*);

Subject to this proviso, that all tolls leviable by the local board in pursuance of this section shall be approved by one of her Majesty's principal secretaries of state.

*Water supply.*

LI. The powers given to local boards by the seventy-sixth section of the Public Health Act, 1848 (*c*), shall extend to any house within their district to which a supply of water can be provided at an expense not exceeding the water rate authorised by the said act or any local act in force in the district, and notices under that section shall be served on owners of houses so supplied instead of occupiers, and expenses incurred under that section shall be recoverable from such owners.

Powers of sect. 76 of 11 & 12 Vict. c. 63, as to water supply extended to this act.

Power of carrying water mains.

LII. Where the local board supply water to their district they shall have the same power for carrying water mains within the district as they have for carrying sewers by the law in force for the time being.

Power to directors of waterworks or market company to sell works, &c., to local boards.

LIII. It shall be lawful for any local board of health absolutely to purchase, and for the directors for the time being of any waterworks company or market company, by and with the authority of three fifths of the shareholders for the time being in such company who may be present, either personally or by proxy, at some general meeting of the company specially convened for the purpose, to sell, convey, and transfer unto any local board of health, upon such terms as shall be mutually agreed upon between the company and the local board, all the rights, powers, and privileges, and all or any of the lands and premises, works, matters, and things, which at the time of such purchase shall be the property of the company, but subject to all mortgages, contracts, or liabilities to which the same shall be then subject.

(*a*) See note, p. 116.
(*b*) See these clauses at length, p. 215. (*c*) p. 274.

21 & 22 Vict. c. 98.

*Expenses and rates.*

Sect. 86 of 11 & 12 Vict. c. 63, as to the power of levying special district rate repealed.

Debts incurred and contracts entered into before passing of this act enforced.

LIV. (1.) The eighty-sixth section of the Public Health Act, 1848 (*a*), shall be repealed; and whenever special district rate is mentioned in the Public Health Act, 1848, that act shall be read as if no such rate were mentioned therein: provided always, that all debts incurred and contracts and engagements entered into by or to any local board previously to the passing of this act shall be enforced, and all powers vested in any local board of raising money by rates, tolls, or other means for the purpose of satisfying all such of the said debts, contracts, and engagements as were incurred or entered into by such local board, shall be exercised, in the same manner as if this act had not been passed (*b*):

(2.) No publication shall be required of any private improvement rate:

(3.) The costs of the levy of arrears of any rate may be included in the warrant for such levy:

(4.) When any rate is appealed against, or the validity of any rate is disputed, the time during which the appeal remains undecided, or any legal proceedings concerning or relating to such rate shall be pending, shall be excluded in calculating the period of six months within which the rate may be made retrospectively:

(5.) Notice of demand of rates may be served in the same way as notice is hereinafter directed to be served by a local board before putting in force the powers of local boards for the taking of land otherwise than by agreement.

Mode of assessment of general district rate, and provision for compounding for rates in the case of small tenements.

LV. The eighty-eighth and ninety-fifth sections of "The Public Health Act, 1848" (*c*), shall be repealed, and in lieu thereof be it enacted, that the general district rates shall be made and levied upon the occupier of all such kinds of property as by the laws in force for the time being are or may be assessable to any rate for the relief of the poor (*d*), and shall be assessed upon the full net annual value of such property, ascertained by the rate (if any) for the relief of the poor made next before the making of the assessments under this act, subject, however, to the following exceptions, regulations, and conditions; namely,

The owner, instead of the occupier, may, at the option of the local board, be rated in cases—

Where the rateable value of any premises liable to assessment under this act does not exceed the sum of ten pounds; or,

Where any premises liable to an assessment are let to weekly or monthly tenants; or,

Where any premises so liable as aforesaid are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly; subject to this proviso, that in cases where the owner is rated instead of the occupier he shall be assessed upon such reduced estimate as the local board deems reasonable of the net annual value, not being less than two-thirds nor more than four-fifths of such annual value:

And where such reduced estimate is in respect of tenements, whether occupied or unoccupied, then such assessment may be made on one half of the amount at which such tenements would be liable to be rated if the same were occupied and the rate were levied on the occupiers:

Certain kinds of property assessable on one fourth of their net annual value.

The owner of any tithes, or of any tithe commutation rentcharge, or the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway (*d*) constructed under the powers of any act of parliament for public conveyance, shall be assessed in

(*a*) p. 278. (*b*) See 24 & 25 Vict. c. 61, ss. 12 and 13, *post*.
(*c*) pp. 278, 281. (*d*) See note, p. 123.

respect of the same in the proportion of one-fourth part only of such net annual value thereof:

Provision as to exemptions from rating under local acts.

Provided nevertheless, that if within any district or part of a district any kind of property be exempted from rating by any local act in respect of all or any of the purposes for which general district rates may be made under this act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies, but not further or otherwise, be exempt from assessment to any general district rates under this act, unless a provisional order obtained and confirmed by parliament in manner hereinafter provided shall otherwise direct.

Poor rate books to be accessible for rating under public health acts.

LVI. For the purpose of assessing the general district rate, any person appointed by the local board may inspect, take copies of or make extracts from, any rate for the relief of the poor within the district, or any books relating to the same; and if any officer having the custody of such last-mentioned rate or book refuses to permit any such inspection, or the taking of any such copies or extract, he shall for each offence incur a penalty not exceeding five pounds: if there is no such assessment as aforesaid for the relief of the poor by reference to which such net annual value can be estimated, or if such assessment is, in the judgment of the local board, an unfit criterion for making a general district rate, a valuation shall be made by a person appointed by the local board for that purpose, in manner, as near as circumstances will permit, prescribed by an act passed in the seventh year of the reign of King William the Fourth, intituled "An Act to regulate Parochial Assessments," or any other act for the time being in force for regulating parochial assessments; and the net annual value of the property shall be ascertained by reference to the said valuation and assessment.

Power of valuation as prescribed by 6 & 7 W. 4, c. 96, in case there should be no assessment.

Sections 107, 113, and 119 of 11 & 12 Vict. c. 63, repealed, and power given for raising money on credit of rates.

LVII. The one hundred and seventh, the one hundred and thirteenth, and the one hundred and nineteenth sections of the Public Health Act, 1848 (*a*), shall be repealed; and in lieu thereof be it enacted, that the local board, or any board of improvement commissioners exercising the borrowing powers of the Public Health Act, 1848, may, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of this act or of any act incorporated herewith, or of any act incorporating the powers of the Public Health Act, 1848, borrow and take up at interest, on the credit of the charges and rates authorised to be made or collected under the said acts respectively, any sums of money necessary for defraying any such costs, charges, and expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the said local board may mortgage to the persons by or on behalf of whom such sums are advanced the said charges and rates or any of them; but the exercise of the above power shall be subject to the following regulations:

(1.) Such money shall not be borrowed except for permanent works, nor without the sanction of one of her Majesty's principal secretaries of state:

(2.) The money so borrowed shall not, except as hereinafter provided, at any time exceed in the whole the assessable value for one year of the premises assessable within the district in respect of which such money may be borrowed (*b*):

(3.) The money may be borrowed for such time, not exceeding thirty years, as the local board, with the sanction of one of her Majesty's principal secretaries of state, determine in each case (*b*); and, subject as aforesaid, the local board may either pay off the monies so borrowed by equal annual instalments, or they may in every year set apart as a sinking fund, and accumulate in the

(*a*) pp. 284—5. (*b*) See 24 & 25 Vict. c. 61, ss. 13 and 14, *post*.

21 & 22 Vict. c. 98.

way of compound interest by investing the same in the purchase of exchequer bills or other government securities, such sum as will be sufficient to pay off the monies so borrowed, or a part thereof, at such times as the local board may determine:

And in cases where the local board borrow any money for the purpose of defraying private expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of the local board, as between the ratepayers of the district, to made good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

Rent charge may be granted for advances made to meet first cost of private improvements.

LVIII. Where any person shall advance money for any expenses which by the said Public Health Act, 1848, are, or by the said local board shall be, declared to be private improvement expenses, the said blocal oard, on being satisfied by the report of their surveyor or otherwise that the money advanced by such person has been duly expended, may issue a grant in the form B. in the schedule hereunto annexed to such person of a yearly rentcharge to be issuable out of the premises in respect whereof such advance shall have been made, or out of such part thereof, to be specified in such grant, as the said local board shall think proper and sufficient, such rentcharge to be personal estate, and to begin to accrue from the day of completion of the works on which such money shall have been expended as aforesaid, and to be payable by equal half-yearly payments for and during a term not exceeding thirty years, in such manner that the whole of the said sum so to be advanced as aforesaid, with the costs of preparing the said grant so to be issued as aforesaid, together with interest thereon respectively, at a rate not exceeding six pounds per centum per annum upon the sum from time to time remaining unpaid, shall be repaid at the end of the said term: provided always, that the grantee of such rentcharge shall for the recovery of the same have all the powers, authorities, rights, and remedies of the said local board with respect to private improvement rates, and the provisions of the ninety-first and ninety-second sections of the Public Health Act, 1848 (*a*), shall also be applicable to such rentcharge.

Rentcharges to be registered.

LIX. All rentcharges made in pursuance of this act, and transfers thereof, shall be registered in the same manner respectively as mortgages and transfers are required to be registered under the one hundred and eleventh and one hundred and twelfth sections of the Public Health Act, 1848 (*b*).

*Audit of accounts.*

Provisions as to audit of accounts.

LX. The one hundred and twenty-second section of the Public Health Act, 1848 (*c*), shall be repealed, and in lieu thereof be it enacted as follows: where the mayor, aldermen, and burgesses of a borough are the local board, the accounts of the receipts and expenditure of the local board shall be audited and examined by the auditors of the borough, and shall be published in like manner and at the same time as the municipal accounts, and the auditors shall proceed in the audit after like notice and in like manner, shall have like powers and authorities, and perform like duties, as in the case of auditing the municipal accounts; and each of such auditors shall in respect of each audit be paid, out of the general district rates levied under this act, such reasonable remuneration, not being less than two guineas for every day in which they are employed in such audit, as the local board from time to time appoints (*d*); and any order of the local board for the payment of any money may be removed by certiorari, and like proceedings may be had thereon as under section forty-four of the act of the first year of her Majesty, chapter seventy-eight, with respect to orders of the council of a borough for payments out of the borough fund:

(*a*) p. 280. (*b*) p. 285.
(*c*) p. 288. (*d*) See 24 & 25 Vict. c. 61, ss. 3 and 15, *post*.

With respect to districts not boroughs, as follows : 21 & 22 Vict. c. 98.

(1.) The accounts of the receipts and expenditure of the local board shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March, by the auditor of accounts relating to the relief of the poor for the union in which the district or the greater part thereof is situate, unless such auditor is a member of the local board whose accounts he is appointed to audit, in which case such accounts shall be audited by such auditor of any adjoining union as may from time to time be appointed by the local board of health :

Power of allowance, disallowance, and surcharge.

And any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same upon the person making or authorising the making of the illegal payment, and shall certify the same to be due from such person, and upon application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made ; and any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor ; and the said court shall have the same powers with respect to allowances, disallowances, and surcharges under this act as it has with respect to disallowances or allowances by the said auditors ; or in lieu of such application any person so aggrieved may appeal to one of her Majesty's principal secretaries of state, who shall have the same powers in the case of the appeal as are possessed by the poor law board in the case of appeals against allowances, disallowances, and surcharges by the said poor law auditors :

Disallowances may be removed by certiorari into court of Queen's Bench.

Appeal against disallowances.

(2.) Every sum certified to be due from any person by the auditor under this act shall be paid by such person to the treasurer of the local board within fourteen days after the same shall have been so certified, unless there be an appeal against the decision ; and if such sum shall not be so paid, and there be no such appeal, the auditor shall recover the same from the person against whom the same shall have been certified to be due by the like process and with the like powers as in the case of sums certified upon the audit of the poor rate accounts, and shall be paid by the local board all such costs and expenses, including a reasonable compensation for his loss of time incurred by him in such proceedings, as shall not be recovered by him from such person :

As to recovery of disallowances.

(3.) For the purpose of any audit of account under this act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, and all other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same ; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings ; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted upon

Power to auditor to require production of books.

21 & 22 Vict. c. 98.

persons guilty of wilful and corrupt perjury; and such auditor shall in respect of each audit be paid, out of the general district rates levied under this act, such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as the local board from time to time appoints, together with his expenses of travelling to and from the place of audit:

Notice of audit.

(4.) Before each audit of accounts under this act, the local board shall, after receiving from the auditor the requisite appointment, give twenty days' notice of the time and place at which the same will be made, by advertisement in some one or more of the public newspapers circulated in the district; and a copy of the accounts to be audited, together with all rate books, account books, deeds, contracts, accounts, bills, vouchers, and receipts mentioned or referred to in such accounts, shall be deposited in the office of the local board, and be open, during office hours thereat, to the inspection of all persons interested, for seven days before the audit; and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of the notice of audit on any proceeding whatsoever:

Report of auditor.

(5.) Within fourteen days after the completion of the audit, the auditor shall report upon the accounts audited and examined, and shall deliver such report to the clerk of the local board, who shall cause the same to be deposited in the office of the local board, and shall publish an abstract of such accounts in some one or more of the newspapers circulated in the district.

*Legal proceedings.*

LXI. Any summons, demand, or notice, or other such document under the Public Health Act, 1848, or any supplemental act or this act, may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the local board, the signature thereof by the clerk to the local board shall be sufficient authentication.

Notices by local boards to be signed by clerk.

Expenses due from owners to be a charge on premises.

LXII. Where the local board have incurred expenses, for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable, either by application of or agreement with the owner, or by the Public Health Act, 1848, or any act incorporated therewith, or this act, the same may be recovered from the person who is owner of such premises when the works are completed for which such expenses have been incurred, in the manner provided by the Public Health Act, 1848 (*a*), and such expenses shall be a charge on the premises in respect of which they were incurred, and shall bear interest at the rate of five pounds per centum per annum till payment thereof. In all summary proceedings by a local board for the recovery of expenses incurred by them in works of private improvement, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

Apportionment of expenses payable by owners to be conclusive after three months from notice given to them of the amount.

LXIII. Notwithstanding anything in the Public Health Act contained, in all cases where by such act the local board shall have incurred expenses, for the repayment whereof the owners of the premises for or in respect of which the same are incurred is made liable by the Public Health Act, 1848, or any act incorporated therewith, or by this act, and such expenses have been settled and apportioned by the surveyors as payable by such owner, such apportionment shall be binding and conclusive upon such owner, unless within the expiration of three months from the time of notice being given by the local board or their surveyor of the amount of

(*a*) See 24 & 25 Vict. c. 61, s. 23, *post*.

proportion so settled by the said surveyor to be due from such owner hall by written notice dispute the same. 21 & 22 Vict. c. 98.

XIV. All questions referable to arbitration under the Public Health 1848, or this act, or any act incorporated therewith, may, when the unt in dispute is less than twenty pounds, be determined before two ces in a summary manner (*a*), but the justices may, if they think fit, ire that the work in respect of which the claim of the local board is e, and the particulars of the claim, be reported on to them by any petent surveyor, not being the surveyor of the local board; and the ces may determine the amount of costs incurred on that behalf, and hom such costs or any part of them shall be paid. Arbitration to be confined to cases involving more than 20*l*.

XV. Memorials under the one hundred and twentieth section of the lic Health Act, 1848 (*b*), from and after the first day of September one sand eight hundred and fifty-eight, shall be addressed to one of her sty's principal secretaries of state, who shall have the same powers in ect thereof as are vested in the general board of health by the said on. Memorials in respect of private improvement charges.

XVI. If any person wilfully injures any works or materials belonging y local board, he shall in cases where no other penalty is provided by Public Health Act, 1848, or any act incorporated therewith, incur for y such offence a penalty not exceeding five pounds, to be recovered in mmary manner. Penalty on injury to works, &c., of local board.

XVII. All penalties incurred in any corporate borough, and made ble to the local board of health by the Public Health Act, 1848, or act incorporated therewith, or this act, or any act of which the powers to be executed by a local board, shall be payable to the district fund unt, any act to the contrary notwithstanding. Penalties to be payable to district fund account.

XVIII. The one hundred and forty-fifth section of the Public Health (*c*) shall be repealed, and in lieu thereof be it enacted, that nothing his act shall be construed to authorise any local board of health, *Saving clauses.*

.) To use, injure, or interfere with any sluices, floodgates, sewers, groynes, or sea defences, or other works, already or hereafter made under the authority of any commissioners of sewers appointed by the crown, or any sewers or other works already or hereafter made and used for the purpose of draining, preserving, or improving land under any local or private act of parliament, or for the purpose of irrigating land, or in any manner to disturb or interfere with any lands, hereditaments, estates, or property vested in her Majesty's principal secretary of state for the war department for the time being, without consent in writing first obtained from such commissioners or secretary of state, or persons acquiring rights under such local or private acts respectively; and nothing herein contained shall prejudice or affect the rights, privileges, powers, or authorities given or reserved to any person under such local or private acts; Section 145, of 11 & 12 Vict. c. 63, repealed, and provisions hereinnamed in lieu thereof.

.) To interfere with any river, canal, dock, harbour, lock, reservoir, or basin, so as to injuriously affect the navigation thereon, or the use thereof, or to interfere with any towing-path so as to interrupt the traffic thereof, in cases where any corporation, company, undertakers, commissioners, conservators, and trustees, or individuals are by virtue of any act of parliament entitled to navigate on or use such river, canal, dock, harbour, lock, reservoir, or basin, or in respect of the navigation on or use of which river, canal, dock, harbour, lock, reservoir, or basin, any corporation, company, undertakers, commissioners, conservators, and Saving clause for proprietors of canals, &c.

(*a*) See 24 & 25 Vict. c. 61, s. 24, *post*.
(*b*) p. 287. (*c*) p. 295.

21 & 22 VICT. c. 98.

trustees, or individuals are entitled by virtue of any act of parliament to the receipt of any tolls or other dues ;

(3.) To interfere with any watercourse in such manner as to injuriously affect the supply of water to any river, canal, dock, harbour, reservoir, or basin, in cases where any corporation, company, undertakers, commissioners, conservators, trustees, or individuals (being authorised by virtue of any act of parliament to navigate on or use such river, canal, dock, harbour, reservoir, or basin, or to demand any tolls or dues in respect of the navigation on or use of such river, canal, dock, harbour, reservoir, or basin), would, if this act had not passed, have been entitled by law to prevent or be relieved against such interference ;

(4.) To interfere with any bridges crossing any river, canal, dock, harbour, or basin, in cases where any corporation, company, undertakers, commissioners, conservators, trustees, or individuals are authorised by virtue of any act of parliament to navigate or use such river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation or use of such river, canal, dock, harbour, or basin ;

(5.) To execute any works in, through, or under any wharves, quays, docks, harbours, or basins, to the exclusive use of which any corporation, company, undertakers, commissioners, conservators, trustees, or individuals are entitled by virtue of any act of parliament, or for the use of which they are entitled by virtue of any act of parliament to demand any tolls or dues,

Without the consent in every case of such corporation, company, undertakers, commissioners, conservators, trustees, or individuals as are hereinbefore in that behalf respectively mentioned, such consent to be expressed in writing, in the case of a corporation under their common seal, and in the case of a company, undertakers, commissioners, conservators, trustees, or individuals, under the hand of their clerk or other duly authorised officer or agent : provided always, that nothing in this act contained shall be construed to alter or affect the maintenance of any rights of local boards existing at the time of the passing of this act.

Works not within preceding section, and which interfere with improvement of rivers, canals, &c., to be referred to arbitration.

LXIX. In cases where any matters or things proposed to be done by any local board, and which are not within the prohibition aforesaid, interfere with the improvement of any river, canal, dock, harbour, lock, reservoir, basin, or towing-path which any corporation, company, undertakers, commissioners, conservators, trustees, or individuals are entitled by virtue of any act of parliament to navigate on or use, or in respect of the navigation whereon or use whereof to demand any tolls or dues, or interfere with any works belonging to such river, canal, dock, harbour, or basin, or with any land necessary for the enjoyment or improvement thereof, the local board shall give to such corporation, company, undertakers, commissioners, conservators, trustees, or individuals as last aforesaid a notice specifying the particulars of the matters and things so intended to be done ; and if the parties on whom such notice is served do not consent to the requisitions thereof, the matter in difference shall be referred to arbitration ; and the following questions shall be decided by such arbitration ; (that is to say),

(1.) Whether the matters or things so proposed to be done by the local board will cause any injury to such river, canal, dock, harbour, basin, towing-path, works, or land as are hereinbefore mentioned in this section, or to the enjoyment or improvement of such river, canal, dock, harbour, or basin as aforesaid :

(2.) Whether any injury that may be caused by such matters or things or any of them is or not of a nature to admit of being fully compensated by money.

LXX. The result of any such arbitration shall be final, and the local board shall do as follows; (that is to say,) 21 & 22 Vict. c. 98.

If the arbitrators are of opinion that no injury will be caused, the local board may forthwith proceed to do the proposed matters and things: Effect of arbitration.

If the arbitrators are of opinion that injury will be caused, but that such injury is of a nature to admit of being fully compensated by money, they shall proceed to assess such compensation; and upon payment of the amount so assessed, but not before, the local board may proceed to do the proposed matters and things:

If the arbitrators are of opinion that injury will be caused, and that it is not of a nature to admit of being fully compensated by money, the local board shall not proceed to do any matter or thing in respect of which such opinion may be given.

LXXI. No transfer of powers and privileges under this act shall deprive any corporation, company, undertakers, commissioners, conservators, trustees, or individuals authorised by virtue of any act of parliament to navigate on any river or canal, or to demand for their own benefit in respect of such navigation any tolls or dues, of such powers and privileges as are vested in them by any act of parliament in relation to such river or canal. Provision as to transfer of powers, &c.

LXXII. Any corporation, company, undertakers, commissioners, conservators, trustees, or individuals authorised by virtue of any act of parliament to navigate on or use any river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation on such river or canal or the use of such dock, harbour, or basin, may, at their own expense, and on substituting other sewers, drains, culverts, and pipes equally effectual, and certified as such by the surveyor to the local board, take up, divert, or alter the level of any sewers, drains, culverts, or pipes constructed by any local board, and passing under or interfering with such rivers, canals, docks, harbours, or basins, or the towing-paths of such rivers, canals, docks, harbours, or basins, and do all such matters and things as may be necessary for carrying into effect such taking up, diversion, or alteration. Power for corporation to alter sewers.

LXXIII. Nothing in this act or any act incorporated therewith shall be construed to authorise any local board to injuriously affect any reservoir, river, or stream, or the feeders of any reservoir, river, or stream, or the supply, quality, or fall of water contained in any reservoir, river, stream, or feeders of any reservoir, river, or stream, in cases where any company or individuals would, if this act had not passed, have been entitled by law to prevent or be relieved against the injuriously affecting such reservoir, river, stream, feeders, supply, quality, or fall of water, unless such board shall have first obtained the consent in writing of such company or individuals so entitled as aforesaid. Preserving water rights of companies or individuals.

LXXIV. Any difference of opinion that may arise between a local board and any such corporation, company, commissioners, conservators, trustees, or individuals as aforesaid, whether any sewers, drains, culverts, or pipes substituted under the powers of this act for sewers, drains, culverts, or pipes constructed or laid down by any local board are equally effectual with those for which they are substituted, or whether the supply, quality, or fall of water in any such reservoir, river, or stream as last aforesaid is injuriously affected by the exercise of powers under this act, may, at the option of the party complaining, be determined by arbitration in the manner hereinbefore provided; and in the latter case the arbitrators shall decide the same questions as to the alleged injury; and the local board shall proceed in the same way as is hereinbefore provided with regard to arbitrations in cases of alleged injury to rivers, canals, docks, harbours, and basins. Arbitration questions under preceding sections.

*Purchase of lands.*

LXXV. So much of the eighty-fourth section of the Public Health Act, 1848 (a), as relates to the incorporation of the Lands Clauses Consolidation Regulation

(a) p. 277.

21 & 22 Vict. c. 98. Act, 1845, shall be repealed, and the following regulations shall be observed with respect to the purchase of land by local boards for the purposes of this act; (that is to say),

as to the purchase of land.

(1.) The Lands Clauses Consolidation Act, 1845 (*a*), shall be incorporated with this act, except the provisions relating to access to the special act:

(2.) The local board, before putting in force any of the powers of the said Lands Clauses Consolidation Act with respect to the purchase and taking of land otherwise than by agreement, shall

Publication of notices.

Publish once at the least in each of three consecutive weeks in the month of November in some newspaper circulated in the district or some part of the district within which such local board has jurisdiction is situate, an advertisement describing shortly the nature of the undertaking in respect of which the land is proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of land that they require; and shall further, in the month of December,

Service of notices.

Serve a notice in manner hereinafter mentioned on every owner or reputed owner, lessee or reputed lessee and occupier of such land, defining in each case the particular land intended to be taken, and requiring an answer, stating whether the person so served assents, dissents, or is neuter in respect of taking such land; such notice to be served

By delivery of the same personally on the party required to be served, or, if such party is absent abroad, to his agent; or

By leaving the same at the usual or last known place of abode of such party as aforesaid; or

By forwarding the same by post in a registered letter addressed to the usual or last known place of abode of such party:

Power to local board to petition secretary of state upon matters herein stated.

(3.) Upon compliance with the provisions hereinbefore contained with respect to advertisements and notices, the local board may, if they shall think fit, present a petition under their seal to one of her Majesty's principal secretaries of state: the petition shall state the land intended to be taken, and the purposes for which it is required, and the names of the owners, lessees, and occupiers of land who have assented, dissented, or are neuter in respect of the taking such land, or who have returned no answer to the notice: it shall pray that the local board may, with reference to such land, be allowed to put in force the powers of the said Lands Clauses Consolidation Act with respect to the purchase and taking of land otherwise than by agreement, and such prayer shall be supported by such evidence as the secretary of state requires:

Secretary of state may direct inquiry;

(4.) Upon the receipt of such petition, and upon due proof of the proper advertisements having been published and notices served, the secretary of state shall take such petition into consideration, and may either dismiss the same, or direct an inquiry in the district in which the land is situate, or otherwise inquire as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made in the district, after such notice as may be directed by the secretary of state, no provisional order shall be made affecting any land, without the consent of the owners, lessees, and occupiers thereof:

and may make provisional order:

(5.) After the completion of the inquiry as last aforesaid, the secretary of state may, by provisional order, empower the local board to put in force with reference to the land referred to in such order the powers of the said Lands Clauses Consolidation Act with respect

(*a*) See note p. 118, and see also 24 & 25 Vict. c. 61, ss. 18-22, *post*.

to the purchase and taking of land otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as he may think fit, and it shall be the duty of the local board to serve a copy of any order so made in the manner and upon the person in which and upon whom notices in respect of such land are hereinbefore required to be served :

No provisional order valid until confirmed by parliament.

(6.) No provisional order so made shall be of any validity unless the same has been confirmed by act of parliament, and it shall be lawful for the secretary of state as soon as conveniently may be to obtain such confirmation, and the act confirming such order shall be deemed to be a public general act of parliament :

Costs how to be defrayed.

(7.) All costs, charges, and expenses incurred by the said secretary of state in relation to any such provisional order as last aforesaid shall, to such amount as the commissioners of her Majesty's treasury think proper to direct, become a charge upon the general district rates levied in the district to which such order relates (*a*), and be repaid to the said commissioners of her Majesty's treasury by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such last mentioned order, upon so much of the principal sum due in respect of the said costs, charges, and expenses as may from time to time remain unpaid.

*Local board to report.*

LXXVI. Every local board shall make an annual report, in such form and at such time as the secretary of state may from time to time direct, of all works executed by them during the preceding year, and of all sums received and disbursements made, under and for the purposes of this act, and publish the same in some newspaper circulating in the district, and shall send a copy to the secretary of state.

Local board to report.

*Provisional orders and powers of secretary of state.*

LXXVII. The one hundred and forty-first section of the Public Health Act, 1848 (*b*), shall be repealed, and in lieu thereof be it enacted as follows : whenever it appears desirable to the local board of any district, or to the majority of the owners and ratepayers in any parish, township, hamlet, or place maintaining its own roads or its own poor, adjoining any district, or to the majority of owners and ratepayers in any part of a district, such majorities to be ascertained in the way herein provided for voting with respect to the adoption of this act,

Petition for incorporation with or separation from district, or for repeal, &c., of local acts.

That any portion of such parish, township, hamlet, or place should be incorporated with the district, or that such part of the district should be separated therefrom,

or whenever it appears to the local board of any district desirable,

That provision should be made for the future execution of any local acts in force within such district, having relation to the purposes of this act, and not conferring powers or privileges upon corporations, companies, undertakers, or individuals, for their own pecuniary benefit ; or that any such acts, or any exemptions from rating derived therefrom, or any provisional order or order in council applying the Public Health Act, 1848, or act confirming such provisional orders, should be wholly or partially repealed or altered,

(1.) They may present a petition to one of her Majesty's principal secretaries of state, praying for such incorporation, separation, provision, repeal, and alteration as aforesaid, or for any of such things, and such petition shall be supported by such evidence as the said secretary requires :

Power of secretary of state on receipt of petition :

(2.) Upon the receipt of any such petition inquiry may be directed in the district in respect of the several matters mentioned in the petition, after giving fourteen days notice of the time, place, and subject of the inquiry :

to issue

(3.) It shall be lawful for any of her Majesty's principal secretaries of

(*a*) See 24 & 25 Vict. c. 61, s. 27, *post.* (*b*) p. 294.

21 & 22 Vict. c. 98.

state to issue a provisional order in relation to the several things mentioned in the petition, and either in accordance with the prayer thereof, or with such modifications as may be requisite; and when the order provides for the incorporation of a portion of any such parish, township, hamlet, or place with the district, or the separation of any part from the district, an inspector shall proceed to the district for the purpose of obtaining the consent to such order of the place of which it is proposed that a portion should be incorporated, or of the part to be separated, and also, if such order provide for any such incorporation, the consent of the petitioning district:

order, and obtain consent of district.

Consents how testified.

(4.) The consent of the petitioning district to such order shall be testified by a resolution of the local board of such district, and the consent of any place or part by a resolution passed by a majority of the ratepayers resident in any such place or part assembled at a meeting convened for the purpose; and the inspector shall, for the purpose of obtaining such consents, have power to convene meetings of the local board of any district, or meetings of the ratepayers of any place or part, with fourteen days notice of the time, place, and subject of such meetings, and to do all such matters and things as may be expedient for that purpose:

Provision as to meetings of part or place.

(5.) In the case of a meeting of the ratepayers of any place or part, the ratepayers present shall elect a chairman; and a declaration by the chairman that the opinion of the meeting is in favour or against any resolution, as the case may be, shall, in the absence of proof to the contrary, be sufficient evidence that the resolution is passed: the inspectors shall have power to attend any such meeting:

Secretary of state to obtain confirmation of order.

(6.) Whenever such consents as aforesaid have been given in the cases in which they are hereinbefore required, the said secretary of state shall, as soon as conveniently may be, take all necessary steps for the confirmation of such order by act of parliament; but previously to such confirmation it shall not be of any validity whatever, and every act of parliament confirming such order shall be deemed a public general act. In case any petition shall be presented to either house of parliament against any provisional order framed in pursuance of this act, in the progress through parliament of the bill confirming the same, the bill, so far as it relates to the order so petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills.

Extension of borrowing powers in certain cases.

LXXVIII. Where a local board, or any board of improvement commissioners exercising the borrowing powers of the Public Health Act, 1848, or this act, or of any local act, has contributed to, purchased, or executed works of sewerage and water supply, or proposes to contribute to, purchase, or execute such works, and where the cost of such works exceeds or is estimated to exceed one year's assessable value of the premises assessable within the district in respect of which such money may be borrowed (*a*), it shall be lawful for such board to present a petition to one of her Majesty's principal secretaries of state praying for powers to borrow or reborrow for such works, on mortgage of the rates leviable by them under the Public Health Act, 1848, and this act, and any local act, an amount not exceeding two years assessable value of the premises assessable within the district in respect of which such money may be borrowed or reborrowed, such amount to be repaid within such period not exceeding fifty years as such board, with the sanction of one of her Majesty's principal secretaries of state, shall in each case determine; and it shall be lawful for any of her Majesty's principal secretaries of state to direct inquiry on such petition, and to issue a provisional order thereupon, and to take steps for the confirmation of any such provisional order by act of parliament in the manner sanctioned in the preceding section.

Secretary of

LXXIX. It shall be lawful for the secretary of state to report annually

(*a*) See 24 & 25 Vict. c. 61, s. 19, *post*.

to parliament on the execution of this act, to make or direct such inquiries as are directed by this act, and to appoint from time to time such officers, clerks, and servants as he may require for the purposes of this act, and at his pleasure to remove any such officers, clerks, or servants; and the commissioners of her Majesty's treasury shall fix the salaries and allowances of such officers, clerks, and servants. 21 & 22 Vict. cc. 98. State to provide for execution of act.

LXXX. Any officer directed by one of her Majesty's principal secretaries of state to inquire into any matter into which such secretary is empowered to direct inquiry under this act shall, for the purposes of such inquiry, have all the powers vested in superintending inspectors by the one hundred and twenty-first section of the Public Health Act, 1848 (*a*). Powers of inquiry directed by secretary of state.

LXXXI. All orders made by one of her Majesty's principal secretaries of state in pursuance of this act shall be binding and conclusive in respect of the matters to which they refer (*b*); and any such secretary may make orders as to the costs of any appeal to him under this act, and the parties by whom such costs are to be borne; and every such order may be made a rule of one of the superior courts of law, on the application of any party named therein. Orders of secretary of state to be binding.

LXXXII. Notwithstanding anything contained in this act, the Oxford and Cambridge commissioners, described in the thirty-first section of the Public Health Act, 1848 (*c*), shall be the bodies authorised to adopt this act for the districts respectively within their jurisdiction; and in the event of the adoption of this act by the said Cambridge commissioners, the said commissioners shall be the local board for the district of Cambridge; and in the event of such adoption by the said Oxford commissioners, the local board of the Oxford district shall consist of the vice-chancellor of the University of Oxford and the mayor of Oxford for the time being, and of forty-five other commissioners, fifteen to be elected by the University of Oxford, sixteen by the town council of Oxford, and fourteen by the ratepayers of the parishes situate within the jurisdiction of the Oxford commissioners; and the election of such commissioners by the town council and by the ratepayers of the parishes respectively shall be conducted at the same time, in the same way, and subject to the same regulations in and subject to which members constituting the body of Oxford commissioners are now respectively chosen by such town council and parishes; and the fifteen commissioners to be elected by the University shall be elected as follows: namely, four commissioners shall be elected by the University in convocation, and eleven commissioners shall be elected by the heads and senior bursars of the several colleges, and by the heads of the several halls; and the elections shall be conducted by the said University, and by the colleges and halls respectively, at the same time and in the same way, and subject to the same regulations, in and subject to which guardians of the poor for the University and for the colleges and halls are now chosen by them respectively, save that in the election of commissioners the heads and bursars of all the colleges and the heads of all the halls shall be summoned by the vice-chancellor for that purpose, and shall be entitled to vote; and differences between either of the universities of Oxford and Cambridge and the local boards of Oxford and Cambridge respectively within the meaning of the one hundred and fifth section of the Public Health Act, 1848 (*d*), shall be settled by arbitration in the manner provided by that act. *Oxford and Cambridge.* Exception of Oxford and Cambridge.

(*a*) p. 288. (*b*) See *Ex parte Bird*, 23 L. J., Q. B. 223.
(*c*) p. 260; and see the 27 & 28 Vict. c. 68. (*d*) p. 283

21 & 22 Vict. c. 98.

## SCHEDULE.

### FORM A.

*Voting Paper.*

At a meeting held on the day of at the of , in the county of , it was agreed that the following resolution should be proposed to the owners and ratepayers :—

"That the Local Government Act, 1858, be adopted in the of ."

| | In favour of. | Against. | Number of Votes. | |
|---|---|---|---|---|
| | | | As Owner. | As Ratepayer. |
| Do you vote in favour of or against the adoption of this resolution ? | *J. S.* | | | |

John Smith,
of 19, Fore Street.

N.B.—The ratepayer will put his initials under the heading "in favour" or "against," according as he votes for or against the resolution. He is also required to subscribe his name and address at full length. If a voter cannot write, he must make his mark instead of initials, but such mark must be attested by a witness, and such witness must write the initials of the voter against his mark. If a proxy vote, he must add after his signature the words, "as proxy for," with the name of corporation or company for which he is proxy. This paper will be collected on the of , between the hours of and

Take Notice.—"If any person wilfully commits any of the acts following, that is to say, fabricates in whole or in part, alters, defaces, destroys, abstracts, or purloins, any voting paper, or personates any person entitled to vote in pursuance of the Public Health Act, 1848, or this act, or falsely assumes to act in the name or on the behalf of any person so entitled to vote, or interrupts the distribution of any voting papers, or distributes the same under a false pretence of being lawfully authorised so to do, he shall for every such offence be liable, on conviction before two justices, to be imprisoned in the common gaol or house of correction for any period not exceeding three months, with or without hard labour." (Local Government Act, 1858.)

(Signed by the Summoning Officer.)

### FORM B.

By virtue of the Public Health Act, 1848, the local board of health for the district of do hereby declare and absolutely order that the inheritance of the [dwelling house, shop, lands, and premises as the case may be], situate in street, in the parish of within the said district, and now in the occupation of shall be absolutely charged with the sum of pounds, paid by of for the improvement by drainage and water supply [as the case may be] of the same dwelling house, shop, lands, and premises [as the case may be], together with interest for the same from the date hereof at pounds per centum per annum, until full payment thereof; and also all costs incurred by the

said his executors, administrators, or assigns, under this security, shall be fully paid and satisfied: and we hereby further declare that the said principal and interest monies shall be paid and payable by the owner or occupier of the said premises to the said his executors, administrators, and assigns, in manner following; (that is to say,) the interest on such principal sum of pounds, or on so much thereof as shall from time to time remain due and payable under this order, shall be paid and payable by equal half-yearly payments whilst payable on the day of and the day of in every year, the first payment thereof to be made on the day of next, and such principal sum of pounds shall be paid and payable by equal annual instalments on the day of in each of the next succeeding years, towards the discharge of the same principal sum, until the whole shall be fully satisfied and discharged. 21 & 22 Vict. c. 98.

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## 21 & 22 Vict. c. 104.

21 & 22 Vict. c. 104.

***An Act to alter and amend the Metropolis Local Management Act (1855), and to extend the Powers of the Metropolitan Board of Works for the Purification of the Thames and the Main Drainage of the Metropolis.*** [2nd August, 1858.]

WHEREAS it is necessary, with a view to the health of the metropolis, that works should be speedily undertaken and completed for the purification of the Thames and for the improvement of the drainage of the metropolis, and for this purpose it is expedient that the act of the session holden in the eighteenth and nineteenth years of her Majesty, "for the better local management of the metropolis," should be amended: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows: 18 & 19 Vict. c. 120 (*a*).

I. The metropolitan board shall cause to be commenced as soon as may be after the passing of this act, and to be carried on and completed with all convenient speed according to such plan as to them may seem proper, the necessary sewers and works for the improvement of the main drainage of the metropolis, and for preventing, as far as may be practicable, the sewage of the metropolis from passing into the river Thames within the metropolis. The metropolitan board of works to commence sewerage works as soon as may be.

II. The metropolitan board of works, for the purposes of this act, may construct any work through, along, over, or under the bed and soil and banks and shores of the river Thames, making compensation to all persons having any interest in any wharfs, jetties, or other property damaged by such works, as provided by the said act of the eighteenth and nineteenth years of her Majesty in respect of property injured under the powers of such act. Metropolitan board may construct works on the shores and bed of the Thames.

III. The powers of taking land given by the said act of the eighteenth and nineteenth years of her Majesty, and all other powers in such act and this act in relation to sewerage works, shall extend and be applicable as well to works for deodorising sewage as to all other works under this act, either within or beyond the limits of the metropolis, and all such works shall be deemed works for the purpose of the sewerage or drainage of the metropolis. Powers of taking land to apply for the purpose of deodorising works.

IV. The metropolitan board of works may, with the consent of the commissioners of her Majesty's treasury, from time to time after the passing Metropolitan board of works may

(*a*) See 18 & 19 Vict. c. 120, p. 343.

21 & 22 Vict. c. 104.

of this act, but not later than the thirty-first day of December one thousand eight hundred and sixty-four, borrow on such bonds, debentures, or other securities, and at such rate of interest, and upon such terms as to the time of repayment and otherwise, as such commissioners may approve, any sum or sums of money not exceeding in the whole the sum of three million pounds for the purposes of this act.

(before 1865) raise the sum of three millions by bonds or debentures.

V. Upon or for the repayment of the principal money secured under the authority of this act, or any part of such money, the said metropolitan board may, with such consent as aforesaid, at any time borrow on such bonds, debentures, or other securities as aforesaid all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money for the time being secured under this act may require to be repaid; but the amount to be secured by new securities shall not in any case exceed the principal money required to be repaid.

Power to raise money for repayment of principal moneys.

VI. It shall be lawful for the commissioners of her Majesty's treasury to guarantee the payment of the principal and interest of any money borrowed under this act, and all bonds, debentures, and securities issued under this act, the payment of the principal and interest secured whereby is intended to be so guaranteed, shall be signed by such officer as the commissioners of her Majesty's treasury may in this behalf from time to time appoint.

The treasury may guarantee payment of moneys borrowed.

VII. All bonds, debentures, and securities issued under the authority of this act, and all right to and in respect of the principal monies secured thereby, and all interest due and accruing thereon, shall be transferable by the delivery of such bonds, debentures, and securities respectively.

Securities transferable by delivery. (*sic*).

VIII. The metropolitan board of works shall cause a separate account to be kept of the money borrowed by such board under this act, and all such money, except money borrowed for repayments as hereinbefore provided, shall be applied in payment of the expenses of and incidental to the works to be executed under this act, and to no other purpose; and the auditor appointed by the secretary of state shall, upon his audit of the accounts of the said board in every year, cause a separate abstract and statement to be prepared of the receipt and expenditure of the said board under this act, which shall be laid before parliament as directed, concerning his other abstracts and statements.

Money borrowed under this act to be applied only to works under this act.

IX. It shall be lawful for the commissioners of her Majesty's treasury from time to time to appoint an engineer or engineers to inspect the works to be constructed under this act, and to report to such commissioners in relation to the expenditure thereon; and such engineer or engineers shall have full power and authority at all reasonable times to enter upon such works, and survey and inspect the same, and to inspect the accounts of the said metropolitan board in relation thereto, for the purpose of reporting as aforesaid.

Appointment of inspecting engineers.

X. The metropolitan board of works shall during forty years from the time of the passing of this act assess and cause to be raised in each year, upon the city of London and the other parts of the metropolis, for the purposes of this act, such sums as, in their judgment, will be equivalent to a rate of threepence in the pound upon the annual value of the property in the said city and other parts respectively, estimated according to the estimate or basis on which the county rate is assessed, or according to a like estimate; and the sums to be so assessed in each year may be assessed at one time or at several times, as the said board may think fit.

Metropolitan board of works to levy a rate of threepence in the pound on the property in the metropolis.

XI. In the assessments of the said metropolitan board under this act, and in their precepts, and in the orders of vestries and district boards to be made in respect of such assessments, such sums shall be distinguished as being assessed for "the metropolis main drainage rate," and all such sums assessed upon the city of London shall be reimbursed to the chamberlain of the said city by means of a separate rate to be called

Such rate to be called "the Metropolis Main Drainage Rate."

"the metropolis main drainage rate," to be levied under the direction of the commissioners of sewers of the said city, in like manner and subject to the like provisions as any rate which such commissioners are authorised to direct to be made under any act relating to the sewerage of the said city, and all such sums assessed on other parts of the metropolis shall be levied by means of a separate rate to be called "the metropolis main drainage rate," in like manner and subject to the like provisions as the sewers rate to be made under the said act of the eighteenth and nineteenth years of her Majesty; and the assessments of the said metropolitan board under this act shall include the places mentioned in schedule (C.) to the said act of the eighteenth and nineteenth years of her Majesty, and the sums to be assessed thereon shall be raised by means of rates to be made and levied as therein provided in respect of the raising of monies assessed by the said board. 21 & 22 Vict. c. 104.

XII. For the purposes of the assessments under this act, all the parts of the metropolis shall be deemed to be equally benefited by the expenditure under this act. All parts of the metropolis to be deemed to be equally benefited.

XIII. The assessments to be made by the metropolitan board of works, and the precepts for obtaining payment of any monies assessed thereby, may be according to the forms contained in the schedule to this act or to the like effect. Assessments and precepts may be according to form in schedule.

XIV. All the provisions of the said act concerning the estimate on which assessments by the said metropolitan board shall be made, and for and in relation to the assessing, raising, and enforcing payment of the sums assessed by the said board, shall, subject to the provisions of this act, extend and apply to and in the case of all sums to be assessed by the said board under this act; provided that the metropolis main drainage rate, and the sums assessed or raised for or in respect thereof, shall not be subject to any mortgage or security made or to be made by the metropolitan board of works, other than securities under this act; but, save as aforesaid, the powers of borrowing and of assessing and rating vested in the said board before the passing of this act shall not be prejudiced or affected by this act. Provisions applicable to other assessments of the metropolitan board to be extended to assessments under this act.

XV. The said metropolitan board may, in case of any default or neglect of any vestry, district board, or other body or person to pay the amount required by any precept of the said board, or any part of such amount, within such time and in such manner as may be mentioned in such precept in that behalf, raise and levy the money required by the said board for the purposes of this act in any parish, district, or part, and for that purpose may make and levy a rate of such amount in the pound on the annual value of the property rateable as will, in their judgment, having regard to all circumstances, be sufficient to raise the money so required as aforesaid; and such rate shall be levied on the persons and in respect of the property by law rateable to the relief of the poor in such parish, district, or part, subject to the provisions in the said act of the eighteenth and nineteenth years of her Majesty contained concerning the levying of monies by overseers in pursuance of orders made upon them by vestries under the said act, and shall be assessed upon the net annual value of such property ascertained by the rate for the time being for the relief of the poor; and the said board may appoint one or more collectors for levying any such rate, and pay him or them any salary, poundage, or allowance in respect of their employment under this enactment which such board may deem just and reasonable, and shall take such security from every such collector for the due execution of his duty as they shall think reasonable and proper; and the said board, and the collector or collectors to be appointed by them, shall have the same powers, remedies, and privileges as for levying money for the relief of the poor; and all such rates shall be allowed in the same manner, and be subject to the same Rates to be made by metropolitan board on default of vestries, &c., in payment of precepts.

21 & 22 Vict. c. 104.

provisions in relation to appeal and to excusing persons from payment on account of poverty and otherwise, as the rate for the relief of the poor; and all the expenses of and incidental to the preparing, making, collecting, and levying any such rate shall be raised and levied by the said metropolitan board in addition to but as part of the said rate; and after deduction by the said board of the expenses, all monies levied or received under or in respect of the said rate shall be paid by the said board into the bank of England to the same account and for the same purposes as hereinafter mentioned concerning monies payable under the precepts of the said board in respect of the metropolis main drainage rate; provided also, that the provisions of sections one hundred and sixty-three, one hundred and sixty-four, and one hundred and sixty-nine of the said act of the eighteenth and nineteenth years of her present Majesty shall be applicable to every rate under this act (*a*).

Extension of provisions as to inspection, &c., of county rates to other rates and taxes.

XVI. The provisions of section one hundred and seventy-one of the said act of the eighteenth and nineteenth years of her Majesty (*b*), for enabling the clerk or other person or persons authorised by the metropolitan board of works to inspect or take copies of or extracts from county rates, bases, returns, and other documents, and the penalties by the said enactment prescribed in the case of neglect or refusal to permit any such clerk or person to inspect or to take copies or extracts, are hereby extended and made applicable to all other rates and assessments, whether parochial or otherwise, within the several parts of the metropolis, and the books in which the same are contained, and the valuations and returns relating thereto, and the person or persons having the custody or control thereof.

Metropolitan board may require to be furnished with copies of poor rates.

XVII. It shall be lawful for the said board, by order in writing, to require the vestry clerk, overseer, collector, or other person having the custody or control of any rate for the relief of the poor in any parish or place, to furnish within such period, not being less than seven days, as shall be limited in such order, or of such part or parts of the said rate as shall be specified in such order, on payment or tender for such copy at the rate of sixpence for every twenty-four names (inclusive of all the particulars in the several columns of the rate, so far as such particulars have reference to such names respectively); and the said copy shall be examined by and signed by such vestry clerk, overseer, collector, or other person, and shall be verified by his solemn declaration, if the said board shall require the same, which solemn declaration any justice of the peace, or commissioner duly authorised, is hereby authorised to administer; and any person having the custody or control of such rate who shall refuse or neglect to make and deliver to the said board, or any person by them authorised to receive the same, such copy or extract, or to make such solemn declaration as aforesaid, shall be liable to a penalty not exceeding ten pounds for every such offence, and to a further continuing penalty of ten pounds for each and every day during which the said offence shall be continued.

Monies arising from the rate to be paid into a separate account in the Bank of England.

XVIII. An account shall be opened in the books of the governor and company of the Bank of England for the purposes of this act, in the names of such officers or persons as the commissioners of her Majesty's treasury may direct, and such account shall be deemed a public account, and all the monies payable under the precepts of the metropolitan board of works in respect of the metropolis main drainage rate shall be paid into the Bank of England to such account, and the dividends and income arising from the investments of any such monies under this act, and the produce of the sale from time to time of such investments, and all monies borrowed for repayment, until applied for that purpose, shall be paid into the Bank of England to the said account.

Application

XIX. All monies paid to the credit of the said account shall be from

(*a*) See 18 & 19 Vict. c. 120, p. 384 (*b*) *Ibid.* p. 386.

time to time applied in payment of the interest of the monies borrowed under this act, and subject thereto in or towards payment of any monies so borrowed which for the time being may be payable, or the purchase of bonds, debentures, or securities whereby any such monies are secured, for the purpose of the extinction thereof; and any surplus, after answering the purposes aforesaid, shall be invested in government securities in such manner as the commissioners of the treasury may think fit and direct, and such investments shall be sold when and as the said commissioners of the treasury may direct.

Of monies paid into the Bank of England.

XX. Provided always, that the commissioners of her Majesty's treasury may authorise any money standing to the credit of the said account in the bank of England, not exceeding in the whole the amount remaining to be raised of the said sum of three million pounds, to be paid to the metropolitan board of works, to be applied as any money to be raised by loan under this act is applicable: In such case the amount which would otherwise have remained raisable under this act shall be reduced by the sum or sums so authorised to be paid to the metropolitan board of works as aforesaid.

Monies arising from rates may be applied in lieu of money to be raised by loan.

XXI. For the purpose of giving effect to such guarantee as herein provided, it shall be lawful for the commissioners of her Majesty's treasury to cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, such sums as may be necessary for payment of such principal and interest as may from time to time be payable in aid of any other monies applicable for that purpose under this act; and in case any principal or interest payable under this act shall be paid out of the said consolidated fund, such commissioners shall cause any money so paid to be repaid to the said consolidated fund out of any monies which may have arisen or may arise from the rates levied under this act or the investment thereof.

Payment in pursuance of guarantee.

XXII. If the whole amount raisable under this act shall have been raised and paid off by means of the rates levied under this act before the expiration of the said period of forty years, the metropolitan board of works, with the consent of the commissioners of her Majesty's treasury, shall discontinue the assessment for "the Metropolis Main Drainage Rate;" and any surplus of the monies arising from the rates levied under this act which may remain after such payment shall be applicable towards defraying the expenses of the said board.

The rate under this act may be determined when the money borrowed is repaid.

XXIII. The metropolitan board of works, in the meantime and until the works required by this act for the purification of the river Thames are completed, may do all such works and apply all such means as they may deem proper for deodorising such sewage or otherwise protecting the public health from any injurious consequences therefrom, and may defray the expenses incurred for this purpose as the expenses incurred by the said board under the said act of the eighteenth and nineteenth years of her Majesty are therein directed to be defrayed.

Metropolitan board to deodorise sewage, and defray expenses as under 18 & 19 Vict. c. 120.

XXIV. The said metropolitan board shall cause all works to be executed under this act to be constructed and kept so as not to be a nuisance, and shall, in deodorising any sewage, and in disposing of any sewage or refuse from sewers, act in such manner as not to create a nuisance.

Board to execute works so as not to create a nuisance.

XXV. Section one hundred and thirty-six of the said act, and so much of section one hundred and forty-four of the said act as provides "that before the metropolitan board of works commence any such works the estimated expense whereof shall exceed fifty thousand pounds, the plan of such works, together with an estimate of the cost of carrying the same into execution, shall be submitted by such board to the commissioners of her Majesty's works and public buildings, and no such plan shall be carried into effect until the same has been approved by such commissioners, and no such works shall be commenced in cases where the estimated expense

Enactments requiring the approbation of the commissioners of works, &c., repealed.

21 & 22 Vict. c. 104.

thereof shall exceed the sum of one hundred thousand pounds, without the previous sanction of parliament," shall be repealed.

Time for completion of works extended to end of 1863.

XXVI. The time limited by section one hundred and thirty-five of the said act of the eighteenth and nineteenth years of her Majesty, for the completion of the sewers and works necessary for preventing the sewage of the metropolis from passing into the river Thames in or near the metropolis, shall be extended to the thirty-first day of December one thousand eight hundred and sixty-three (*a*).

Works, &c., to be approved of by the admiralty.

XXVII. No works upon the bed or shores of the said river Thames below high-water mark which may interfere with the navigation of that river shall at any time be commenced or executed under the provisions of this act without the same having been previously approved of by the lord high admiral, or the commissioners for executing the office of lord high admiral, such approval to be from time to time specified in writing under the hand of the secretary to the admiralty.

Works upon shore of the river Thames to be approved by the conservators of the river Thames.

XXVIII. In order to preserve the navigation of the river Thames, the plans of any work to be constructed under the authority of this act upon the banks, bed, or shore of the river Thames, which may interfere with the free navigation of the said river, shall be approved by the conservators of the river Thames, in writing signed by their secretary, before such works are commenced, certifying that the works according to such plans will not interfere with the navigation of the river Thames.

Saving rights of the conservators of the river Thames.

XXIX. Nothing in this act contained shall extend or be construed to extend to prejudice or derogate from the rights of the conservators of the river Thames, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of the passing of this act the said conservators did or might lawfully claim, use, or exercise, so far as such rights, power, authority, or jurisdiction may be exercised for preserving the free navigation of the river Thames.

Regulation of works under or over the River Lea.

XXX. No works under or over the main navigable channel of the river Lea shall at any time be commenced or executed under the provisions of this act without leaving the top of any work under the navigation not less than twelve feet below high water, Trinity standard, and for any work over any part of the navigation without leaving the soffit of such work not less than eight feet six inches above high water, Trinity standard, with a clear span over the said river, inclusive of the towing path thereof, of not less than fifty-four feet; provided that it shall be lawful for the trustees of the river Lea, by writing under their common seal, on the application of the metropolitan board of works, to consent to an alteration or variation of the said dimensions or either of them.

On complaint of nuisance committed in execution of works, secretary of state may order prosecution.

XXXI. It shall be lawful for one of her Majesty's principal secretaries of state, at his discretion, on representation or complaint made to him of any nuisance committed in execution of any works, or in deodorising any sewage, or in disposing of any sewage or refuse from sewers, or in any other manner under this act, to cause inquiry to be made into the matter represented or complained of to him, and to direct such prosecution or prosecutions, or to take such other proceedings as he may think fit, in order to ensure the prevention or abatement of such nuisance as aforesaid.

Interpretation of terms.

XXXII. In the construction of this act the expression "deodorise" shall be deemed to include any process whereby the solid suspended matters in sewage may be precipitated or separated from the liquid before the discharge thereof, or whereby the noxious or offensive properties of sewage may be neutralised; and the expression "sewage" shall mean and include the contents of the sewers before the employment of such process.

Recited act and this act to be as one.

XXXIII. The said act of the eighteenth and nineteenth years of her Majesty and this act shall be read together as one act.

(*a*) 1866: see 26 & 27 Vict. c. 68, s. 6, *post*.

21 & 22 VICT. c. 104.

## SCHEDULES.

### SCHEDULE (A.)

*Form of Assessment by Metropolitan Board of Works.*

An assessment by the metropolitan board of works in exercise of the powers vested in such board by the act of the nineteenth year of Queen Victoria, for the better local management of the metropolis, and by the other acts for amending the same, upon the city of London and the other parts of the metropolis, for the "metropolis main drainage rate," of the sums hereinafter specified, such sums being in the judgment of the said board equivalent to a rate of threepence in the pound upon the annual value of the property in the said city and other parts respectively, estimated according to the estimate or basis on which the county rate is assessed, or according to a like estimate :—

| Parish, District, or Part. | Sums assessed. |
|---|---|
| | £ |
| City of London . . . . . | |
| Parish of St. Marylebone . . . . | |

### SCHEDULE (B.)

*Form of Precept by Metropolitan Board of Works.*

To the vestry of the parish of

By virtue of an act passed in the nineteenth year of Queen Victoria, for the better local management of the metropolis, and the several acts amending the same, the metropolitan board of works do issue this their precept, under their common seal, to you the said vestry, and do hereby require you to pay, on or before the day of into the bank of England, to the credit of the account standing in the books of the governor and company of the said bank in the names of the same being persons duly appointed by the commissioners of her Majesty's treasury in this behalf, the sum of assessed by the said board upon the said parish for the "metropolis main drainage rate."

Dated this day of

(L.S.)

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## 22 VICT. c. 21.

22 VICT. c. 21.

*An Act to amend the Medical Act* (1858) (*a*).

[19th April, 1859.]

21 & 22 Vict. c. 90 (*b*).

WHEREAS by an act passed in the last session of parliament, chapter ninety, "The Medical Act," provision is made for the registration of members of the medical profession, and certain disabilities are imposed, after the first day of January one thousand eight hundred and fifty-nine, on members of that profession who are not then registered : and whereas, by reason of the time required for the collection and examination of the proper evidence on the first formation of "The Medical Register," it is expedient to amend the said act as hereinafter mentioned : and whereas it is expedient that schedule D. of the aforesaid act should be amended : and whereas in sections thirty-one and forty-seven of the Medical Act (1858)

(*a*) See "Medical Practitioners," p. 174.
(*b*) See this act, p. 445.

22 Vict. c. 21.

the terms "fellow," and "member" of the Royal Colleges of Physicians of London and Edinburgh are made use of, whilst in schedule A. in the same act "fellows," "licentiates," and "extra licentiates" of the said colleges are alone entitled to be registered: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

1st July, 1859, to be substituted in ss. 32, 34, 36 and 37, of recited act for 1st Jan., 1859.

I. The first day of July one thousand eight hundred and fifty-nine shall be substituted, in sections thirty-two, thirty-four, thirty-six, and thirty-seven respectively of the said act, for the first day of January one thousand eight hundred and fifty-nine; and the said several sections, and all provisions of the said act having reference thereto, shall be construed and take effect as if the word July had been originally inserted in each of the said sections instead of the word January.

Section 33 of recited act repealed.

II. Section thirty-three of the said act shall be repealed, and no person shall by reason of the said act be or be deemed to have been disqualified to hold such office as mentioned in the said section thirty-three, or any appointment mentioned in the said section thirty-six, unless he shall have failed to be registered on or before the first day of July one thousand eight hundred and fifty-nine.

Fourth column of schedule D. repealed.

III. The fourth column of schedule D. of the said act with its heading shall be repealed and omitted.

The term "member" to be added in schedule A.

IV. The term "member" shall be added after the term "fellow" to the qualifications described in the first and second heads of schedule A.

The words "forty-six" to be substituted for "forty-five" in schedule A.

V. And whereas in schedule A. of the said act there is a reference to section "forty-five," but the word "five" is there inserted by mistake: now it is hereby enacted, that the words "forty-six" shall be deemed to be substituted in this schedule in the place of the words "forty-five."

Any person not a British subject having obtained his degree or diploma may act as resident physician, &c., of any hospital exclusively for foreigners.

VI. Nothing in the said act contained shall prevent any person not a British subject who shall have obtained from any foreign university a degree or diploma of doctor in medicine, and who shall have passed the regular examinations entitling him to practise medicine in his own country, from being and acting as the resident physician or medical officer of any hospital established exclusively for the relief of foreigners in sickness: provided always, that such person is engaged in no medical practice except as such resident physician or medical officer.

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## 22 Vict. c. 27.

22 Vict. c. 27.

*An Act to facilitate Grants of Land to be made near populous Places for the Use of regulated Recreation of Adults, and as Playgrounds for Children* (a). [19th April, 1859.]

Whereas the want of open public grounds for the resort and recreation of adults, and of playgrounds for children and youth, is much felt in the metropolis and other populous places within this realm, and by reason of the great and continuous increase of the population and extension of towns such evil is seriously increasing, and it is desirable to provide a remedy for the same: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

(a) See "Public Pleasure Grounds," p. 65.

22 VICT. c. 27.

I. Any lands may be lawfully conveyed to trustees, to be held by them as open public grounds for the resort and recreation of adults, and as playgrounds for children and youth, or either of such purposes, and for any estate, and subject to any reservation, restrictions, and conditions which the donor or grantor may think fit: but this enactment shall not extend to authorise any lands to be so conveyed for any greater estate or interest than the donor or grantor would, independently of this act, have power to dispose of. Lands may be conveyed to trustees to be held by them as public grounds, &c.

II. Any such conveyance of land to trustees may be in the following form, subject to any modification thereof which the case may require: Form of conveyance.

'I *A. B.* do hereby convey and grant to as trustees for public ground for the parish [*or* parishes] of [*here describe the lands conveyed or granted*], to be held by them as public ground for the purposes of "The Recreation Grounds Act, 1859."'

And it is hereby enacted, that the grant or conveyance of such lands shall not require enrolment, nor to be by indenture, and shall be valid, although the donor or grantor shall die within twelve calendar months after the making of such grant, any of the provisions of the act passed in the ninth year of the reign of King George the Second, chapter thirty-six, to the contrary notwithstanding.

III. With respect to lands belonging to any municipal corporation, such grant may be lawfully made by the body corporate, with the consent of the commissioners of her Majesty's treasury, signified by their executing the deed of conveyance. How grants of lands belonging to municipal corporations may be made.

IV. With respect to lands belonging to any parish, such grant may and shall be made by the trustees or feoffees (if there shall be such), or otherwise by the churchwardens and overseers of the parish, in pursuance of a resolution for that purpose of the vestry or other body having the management of the affairs of such parish, passed in meeting duly assembled for the purpose, and with the approbation of the poor law board, to be testified by their seal being affixed to the deed of conveyance. How grants of lands belonging to parishes may be made.

V. With respect to the appointment of trustees for holding any such grounds for the purpose aforesaid, the lord of any manor, or the churchwardens of any parish, or the overseers of the poor of any parish or township, or all or any of such persons to whom lands shall have been conveyed as aforesaid, shall be a body corporate for taking, holding, and disposing of such grounds, and instituting, maintaining, and defending any proceedings relating thereto; but the management and direction of the same shall be and remain in such persons as may be named in the deed of conveyance thereof; and in case no such persons shall be so named, or there shall be a failure of such managers and directors, the charity commissioners for England and Wales shall have power to settle a scheme for the appointment of the managers and directors. Appointment of trustees.

VI. The managers and directors may from time to time make and enforce any such byelaws, orders, and regulations for the management, preservation, disposition, and care of the said grounds, and the government of all persons using or frequenting the same, as shall be approved by the said commissioners and in accordance with the conditions of the grant; and no byelaws, orders, or regulations in any manner restricting the public use or enjoyment of the said grounds shall be valid unless sanctioned with such approbation. Managers and directors may make and enforce byelaws and regulations, subject to the approval of said commissioners.

VII. It shall be lawful for any person to bequeath any personal property, not exceeding one thousand pounds in amount, for the purpose of defraying the expenses of purchasing, preparing, maintaining, and preserving such grounds for the purposes aforesaid, and ornamenting the same. Personal property may be bequeathed for purposes of grounds.

VIII. This act shall extend to England and Ireland only, and may be cited for all purposes by the title of "The Recreation Grounds Act, 1859." Extent of act, and short title

## 23 VICT. c. 7.

23 VICT. c. 7.

### *An Act to amend the Medical Acts (a).*

[23rd March, 1860.]

WHEREAS by an act passed in the twenty-first and twenty-second years of the reign of her Majesty, chapter ninety, intituled "The Medical Act," provision is made for the registration of members of the medical profession, and the said act was amended by an act passed in the twenty-second year of the reign of her Majesty, chapter twenty-one; and certain disabilities are imposed by the said acts, after a period mentioned therein, on members of that profession who are not then registered: and whereas it is expedient that the said recited acts should be amended as hereinafter mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

21 & 22 Vict. c. 90 (b).

22 Vict. c. 21 (c).

Licentiates in surgery of any university in Ireland entitled to be registered under first-recited act in like manner as masters in surgery.

I. From and after the passing of this act the diploma or licence in surgery, granted by any university of that part of the United Kingdom called Ireland, legally authorised to grant the same, shall be considered a sufficient qualification to practise under the said first-recited act, and every person to whom such diploma or licence has been granted shall be entitled to be registered under the provisions of the said first-recited act, in the like manner, and with the like effect, and subject to the like provisions as are prescribed by the said first-recited act in respect of the registration of any master in surgery of any university of the United Kingdom.

Certain powers given to medical council extended to this act.

II. The powers given to the medical council in the said first-recited act with respect to the studies and examinations required for obtaining a qualification under the said act shall be extended to the studies and examinations required for a qualification under this act.

1st Jan., 1861, to be substituted in sections 32, 34, 36, and 37, of first-recited act, for 1st July, 1859, so far as relates to persons authorised to be registered under this act.

III. The first day of January one thousand eight hundred and sixty-one shall be deemed to be substituted in sections thirty-two, thirty-four, thirty-six, and thirty-seven respectively of the said first-recited act, as the same are amended by the said second-recited act, for the first day of July one thousand eight hundred and fifty-nine, so far as the same relate to any person authorised to be registered under this act; and the said several sections, as so amended, and all the provisions of the said act having reference thereto, shall, with respect to any such person so authorised to be registered under this act, be construed and take effect as if the words "the first day of January one thousand eight hundred and sixty-one" had been originally inserted in each of the said sections instead of the words "the first day of July one thousand eight hundred and fifty-nine."

No person authorised to be registered under this act disqualified to hold certain offices, unless he has failed to be registered.

IV. No person authorised to be registered under this act who shall be acting as medical officer under an order of the poor law commissioners, or poor law board, shall by reason of the said recited acts, or either of them, be or be deemed to have been disqualified to hold such office, or any appointment mentioned in section thirty-six of the said first-recited act, unless he shall have failed to be registered on or before the first day of January one thousand eight hundred and sixty-one.

(a) See "Medical Practitioners" p. 174. (b) See this act, p. 445.
(c) See this act, p. 493.

V. The said recited acts and this act shall be construed together as one act. 23 Vict. c. 7.

Recited acts and this act to be as one.

VI. This act may for all purposes be cited as "The Medical Acts Amendment Act, 1860." Short title.

## 23 & 24 Vict. c. 30.

23 & 24 Vict. c. 30.

*An Act to enable a Majority of Two Thirds of the Ratepayers of any Parish or District, duly assembled, to rate their District in aid of Public Improvements for general Benefit within their District* (*a*). [3rd July, 1860.]

Whereas it is expedient that facility should be given for the purpose of effecting local improvements beneficial to the health and comfort of the people: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. It shall be lawful for the ratepayers of any parish maintaining its own poor, the population of which, according to the last account from time to time taken thereof by the authority of parliament, exceeds five hundred persons, to purchase or lease lands, and to accept gifts and grants of land, for the purpose of forming any public walk, exercise or play ground, and to levy rates for maintaining the same, and for removal of any nuisances or obstruction to the free use and enjoyment thereof, and for improving any open walk or footpath, or placing convenient seats, or shelters from rain, and for other purposes of a similar nature. Ratepayers may hold land, &c., for purpose of forming public walks, &c., and levy rates for maintaining the same, &c.

II. This act may be adopted for any borough, or for any parish having a population of five hundred or upwards (according to the last account for the time taken by authority of parliament), in the same manner as the act of the ninth and tenth Victoria, chapter seventy-four, may be adopted in such borough or parish. Adoption of act, according to 9 & 10 Vict. c. 74.

III. Where the act is adopted in a borough or in such a parish, the provisions of the act of the ninth and tenth Victoria, chapter seventy-four, for the purposes below specified applicable in the like cases where that act is adopted, shall take effect for the purposes of this act, viz.: all the provisions concerning As to public baths and wash-houses.

1. The authority by which and the manner in which the act is to be carried into execution;
2. The mode of providing the expenses of carrying the act into execution (excluding the provisions for borrowing money for such expenses):
3. The appointment (in the case of a parish) of commissioners, the tenure of office and procedure, and the audit of their accounts:
4. The powers of the councils and commissioners for the purposes of the act (except the powers of borrowing money).

IV. After the adoption of this act it shall be lawful for the ratepayers in meeting assembled to rate such parish to a separate rate, to be called the "  parish improvement rate;" provided that such rate be agreed to by a majority of at least two thirds in value of the ratepayers assembled at such meeting. Ratepayers, after notice given, to rate parishes.

V. Corporate bodies shall be allowed to attend meetings to be held as aforesaid, and to vote thereat by some person to be deputed by them for that purpose under their corporate seal. Corporate bodies may attend and vote.

(*a*) Se "Public Pleasure Grounds," p. 65.

23 & 24 Vict. c. 30.

One half of the estimated cost to be raised by private subscription.

VI. Provided always, that previous to any such rate being imposed a sum in amount not less than at least one-half of the estimated cost of such proposed improvement shall have been raised, given, or collected by private subscription or donation.

Amount of rate.

VII. Such rate shall not exceed sixpence in the pound.

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## 23 & 24 Vict. c. 77.

23 & 24 Vict. c. 77.

*An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases* (*a*). [6th August, 1860.]

18 & 19 Vict. cc. 121 and 116.

Whereas the provisions of "The Nuisances Removal Act for England, 1855" (*b*), and "The Diseases Prevention Act, 1855" (*c*), concerning the local authority for the execution of the said acts are defective, and it is expedient that the said acts should be amended as hereinafter mentioned: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

*Nuisances removal.*

I. Section three, section six, section seven, and section nine of the said "Nuisances Removal Act for England, 1855," shall be repealed: provided always, that such repeal as aforesaid shall not extend to any charges or expenses already incurred, but the same may be defrayed and recovered, and all proceedings commenced or taken under the said act, and not yet completed, may be proceeded with, and all contracts under the said act shall continue and be as effectual as if this act had not been passed.

Sections 3, 6, 7, and 9 of 18 & 19 Vict. c. 121, repealed (*b*).

Local authority to execute the nuisances removal act.

II. The following bodies shall respectively be the local authority to execute the said Nuisances Removal Act in the districts hereunder stated in England:

In any place within which the Public Health Act is or shall be in force, the local board of health:

In any other place wherein a council exists or shall exist, the mayor, aldermen, and burgesses by the council, except in the city of London and the liberties thereof, where the local authority shall be the commissioners of sewers for the time being, and except in the city of Oxford and borough of Cambridge, where the local authority shall be the commissioners acting in execution of the local improvement acts in force respectively in the said city and borough:

In any place in which there is no local board of health or council, and where there are or shall be trustees or commissioners under an improvement act, such trustees or commissioners:

In any place within which there is no such local board of health, council, body of trustees, or commissioners, if there be a board of guardians of the poor for such place, or for any parish or union within which such place is situate, such board of guardians, and, if there be no such board of guardians, the overseers of the poor for such place, or for the parish of which such place forms part.

Highway board or nuisances removal committees now subsisting may be continued

III. Provided, that in any place where a highway board or "the nuisances removal committee" chosen by the vestry in pursuance of the said act is subsisting, and at the time of the passing of this act employs or joins with other local authorities in employing a sanitary inspector or inspectors, such highway board or nuisances removal committee may continue to act, and a like committee may be annually chosen by the vestry for such place

(*a*) See "Removal of Nuisances" and "Prevention of Diseases," pp. 51 and 163.
(*b*) See this act, p. 419. (*c*) See this act, p. 341.

in the same manner as if this act had not been passed; but in case in any year the nuisances removal committee be not chosen for such place in manner provided by the said act, or if the highway board or committee now subsisting or hereafter chosen fail for two months in any year to appoint or employ a sanitary inspector or inspectors, the authority of such highway board or committee shall cease, and no like committee shall be chosen for such place, and the same body or persons shall thenceforth be the local authority for the place as if no such highway board or committee had been appointed therein. 23 & 24 Vict. c. 77. so long as they employ sanitary inspectors.

IV. All charges and expenses incurred by the local authority in executing the said Nuisances Removal Act, and not recovered as therein provided, shall be defrayed as follows; to wit, How expenses of local authority to be defrayed.

Out of general district rates where the local authority is a local board of health:

Out of the borough fund or borough rate where the local authority is the mayor, aldermen, and burgesses by the council:

Provided always, that in the city of Oxford and borough of Cambridge such expenses shall be deemed annual charges and expenses of cleansing the streets of the said city and borough respectively, and shall be so payable:

Out of the rates levied for purposes of improvement under any improvement act, where the local authority is a body of trustees or commissioners acting in execution of the powers of such an act:

Where a board of guardians for a union is such local authority for the whole of such union, such charges and expenses shall be defrayed by means of an addition to be made to the rate for the relief of the poor of the parish or parishes for which the expense has been incurred, and be raised and paid in like manner as money expended for the relief of the poor:

Where the board of guardians for a union is such local authority for two or more places maintaining their own poor, but not for all such places in such union, such charges and expenses shall be paid out of the poor rates of the places aforesaid for which the board is the local authority:

Where the board of guardians for a union is under this act the local authority for a single place maintaining its own poor, and where the board of guardians for any such single place, or the overseers of any such place, or "the nuisances removal committee" continued or chosen as hereinbefore provided in any such place, are under this act the local authority for such place, such charges and expenses shall be defrayed out of the rates for the relief of the poor thereof:

Where the board of guardians for a union is under this act the local authority for part only of any place maintaining its own poor, together with the whole of any other such place or part of any other such place, such board shall apportion such charges and expenses between or among any or every such part and any or every such place; and so much of such charges and expenses as may be apportioned to any or every such place for the whole of which such board is the local authority shall be defrayed out of the rates or funds applicable to the relief of the poor thereof:

So much of any such charges and expenses as may be apportioned to part of a place maintaining its own poor, and any such charges and expenses incurred by any board of guardians or overseers, where such board or overseers are the local authority for part of any such place only, shall be defrayed by means of an addition to be made to the rate for the relief of the poor thereof, and be raised and paid in like manner as money expended for the relief of the poor.

V. Provided, that the board of guardians for a union may appoint a committee or committees of their own body, under section five of the said Nuisances Removal Act, to act in and for one or more of the parishes or Board of guardians may appoint committees

23 & 24 Vict. c. 77.

for particular parishes.

places for which the board is the local authority; and every committee so appointed shall have the full power of executing the said act in all respects within the specified place or places for which it is appointed, unless its power be expressly limited by the terms of its appointment; and the board of guardians shall cause the charges and expenses of every such committee to be paid out of the poor rates of the place or places for which such committee is appointed; and where a committee is so appointed for any such place or places the charges and expenses of the board as local authority for or in respect of the place or places for which a committee is not appointed shall be paid or contributed by such last-mentioned place or places in like manner as the expenses of a committee: provided that where any one such committee is appointed for all the places for which the board is the local authority its charges and expenses shall be contributed and paid in like manner as the charges and expenses of the board would have been contributed and paid if such committee had not been appointed.

Saving for the vestries and district boards of the metropolis.

VI. Provided also, that as regards the metropolis, the vestries and district boards under the act of the session holden in the eighteenth and nineteenth years of her Majesty, chapter one hundred and twenty, within their respective parishes and districts, shall continue and be the local authorities for the execution of the said Nuisances Removal Act, and their charges and expenses shall be defrayed as if this act had not been passed.

Wells, &c., belonging to any place vested in local authority, &c.

VII. All wells, fountains, and pumps provided under section fifty of "The Public Health Act, 1848" (*a*), or otherwise, for the use of the inhabitants of any place, and not being the property of or vested in any person or corporation other than officers of such place, shall be vested in the local authority under this act for such place, who shall from time to time cause to be kept in good repair and condition and free from pollution all wells, fountains, and pumps vested in them under this act, and may also keep in good repair and condition and free from pollution other wells, fountains, and pumps dedicated to or open to the use of the inhabitants of such place.

Penalty for fouling water.

VIII. If any person do any act whatsoever whereby any fountain or pump is wilfully or maliciously damaged, or the water of any well, fountain, or pump is polluted or fouled, he shall, upon summary conviction of such offence before two justices, forfeit a sum not exceeding five pounds for such offence, and a further sum not exceeding twenty shillings for every day during which such offence is continued after written notice from the local authority in relation thereto; but nothing herein contained shall extend to any offence provided against by section twenty-three of the said "Nuisances Removal Act."

Appointment of inspector of nuisances.

IX. Local authorities under this act may, for the purposes of the act, severally appoint or employ inspectors of nuisances, and make such payments as they see fit for the remuneration and expenses of such inspectors.

*Diseases prevention.*

X. Sections two and three of "The Diseases Prevention Act, 1855" (*b*), and every other enactment constituting a local authority for the execution of the same act, or providing for the expenses of the execution thereof, except those contained in the eighteenth and nineteenth of Victoria, chapter one hundred and twenty (*c*), the Metropolis Local Management Act, shall be repealed.

Sections 2 and 3 of 18 & 19 Vict. c. 116 repealed.

Guardians and overseers of the poor to be the local authorities for execut-

XI. The board of guardians for every union, or parish not within an union, in England shall be the local authority for executing the said Diseases Prevention Act in every place within their respective unions and parishes, and in every parish and place in England not within a union, and for which there is no board of guardians, the overseers of the poor shall be the local authority to execute the same act; and the expenses incurred in

(*a*) See this section, p. 266. (*b*) See 18 & 19 Vict. c. 116, p. 341.
(*c*) See 18 & 19 Vict. c. 120, p. 343.

the execution of such act by the board of guardians for a union shall be defrayed out of the common fund thereof, and the expenses of the board of guardians or overseers of the poor of any single parish or place shall be defrayed out of the rates for the relief of the poor of such parish or place; provided that every such board of guardians shall for the execution of the said act for the prevention of diseases, have the like powers of appointing committees, with the like authority, and where any such committee is appointed the expenses thereof and of the board shall be paid in the same manner, as hereinbefore provided where such a board is the local authority for the execution of the said Nuisances Removal Act; provided also, that any expenses already incurred by any local authority in the execution of the said act shall be defrayed as if this act had not been passed; provided, moreover, that in respect of any place where, under this act, the local authority for executing the Nuisances Removal Act is any other body than the board of guardians or the overseers of the poor, the privy council, if it see fit, may, in the manner provided for the exercise of its powers under the Public Health Act, 1858, authorise such other body to be, instead of the board of guardians or the overseers of the poor, the local authority for executing the Diseases Prevention Act; provided also, that as regards the metropolis the vestries and district boards under the act of the session holden in the eighteenth and nineteenth years of her Majesty, chapter one hundred and twenty, within their respective parishes and districts, shall continue to be the local authorities for the execution of the said "Diseases Prevention Act, 1855," and their charges and expenses shall be defrayed as if this act had not been passed.

ing Diseases Prevention Act.

XII. It shall be lawful for the local authority for executing the said "Diseases Prevention Act" to provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any contagious or infectious disease, and to convey such sick and diseased persons as may be residing within such locality to any hospital or other place of destination, and the expense thereof shall be deemed to be an expense incurred in executing the said act.

Local authorities may provide carriages for conveyance of infected persons.

XIII. Upon complaint before a justice of the peace by any inhabitant of any parish or place of the existence of any nuisance on any private premises in the same parish or place, such justice shall issue a summons requiring the person by whose act, default, permission, or sufferance the nuisance arises, or if such person cannot be found or ascertained, the owner or occupier of the premises on which the nuisance arises, to appear before two justices in petty sessions assembled at their usual place of meeting, who shall proceed to inquire into the said complaint, and act in relation thereto as in cases where complaint is made by a local authority under section twelve of the said Nuisances Removal Act, and as if the person making the complaint were such local authority: provided always, that it shall be lawful for the said justices, if they see fit, to adjourn the hearing or further hearing of such summons for an examination of the premises where the nuisance is alleged to exist, and to require the admission or authorise the entry into such premises of any constable or other person or persons, and thereupon the person or persons authorised by the order of the justices may enter and act as the local authority might under a like order made by any justice under section eleven of the said act: provided also, that the costs in the case of every such application shall be in the discretion of the justices, and payment thereof may be ordered and enforced as in other cases of summary adjudication by justices: any order made by justices under this enactment shall be attended with the like penalties and consequences for disobedience thereof and subject to the like appeal as any order made under section twelve of the said Nuisances Removal Act, and the justices making such order may thereby authorise any constable or other person or persons to do all acts for removing or abating the nuisance condemned or prohibited, and for executing such order, in like manner as a local

Justices on the application of householders, may order the removal of nuisances.

23 & 24 Vict. c. 77.

authority obtaining the like order might do under the said act, and to charge the costs to the person on whom the order is made, as is provided in the case where a like order is obtained and executed by such local authority.

Guardians may procure sanitary reports and pay for the same.

XIV. The guardians of any union, or parish not within an union, may at any time employ one of their medical officers to make inquiry and report upon the sanitary state of their union or parish, or any part thereof, and pay a reasonable compensation for the same out of their common fund.

Interpretation of terms.

XV. The several words used in this act shall be construed in the same manner as is declared with reference to the same words in the above-cited act, termed "The Nuisances Removal Act for England, 1855," and all the provisions therein, and in "The Diseases Prevention Act, 1855," contained, shall respectively be applicable to this act, except so far as they shall be hereby repealed, or be inconsistent with anything herein provided.

Justices not incapable of acting by being members of bodies to execute nuisances removal act.

XVI. No justice of the peace shall, unless objected to at the hearing of any complaint or charge, be deemed incapable of acting in cases other than appeals arising under the said Nuisances Removal Act by reason of his being a member of any body hereby declared to be the local authority to execute the said act, or by reason of his being a contributor, or liable to contribute, to any rate or fund out of which it is hereby provided that all charges and expenses incurred in executing the said act, and not recovered as therein provided, shall be defrayed.

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## 23 & 24 Vict. c. 84.

23 & 24 Vict. c. 84.

*An Act for preventing the Adulteration of Articles of Food or Drink* (*a*). [6th August, 1860.]

Whereas the practice of adulterating articles of food and drink for sale, in fraud of her Majesty's subjects, and to the great hurt of their health, requires to be repressed by more effectual laws than those which are now in force for that purpose: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Penalty on persons selling articles of food or drink knowing the same to be injurious to health.

I. Every person who shall sell any article of food or drink with which, to the knowledge of such person, any ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell as pure or unadulterated any article of food or drink which is adulterated or not pure, shall for every such offence, on a summary conviction of the same before two justices of the peace at petty sessions in England, and in Scotland before two justices of the peace in justice of the peace court, or before the sheriff substitute of the county, or before justices at petty sessions or a divisional justice in Ireland, forfeit and pay a penalty not exceeding five pounds together with such costs attending such conviction as to the said justices shall seem reasonable; and

As to subsequent offences.

if any person so convicted shall afterwards commit the like offence it shall be lawful for such justices to cause such offender's name, place of abode, and offence to be published, at the expense of such offender, in such newspaper or in such other manner as to such justices shall seem desirable.

Power to appoint analysts.

II. In the city of London and the liberties thereof the commissioners of sewers of the city of London and the liberties thereof, and in all other parts of the metropolis the vestries and district boards acting in execution of the act for the better local management of the metropolis in England and Ire-

(*a*) See "Adulteration of Food," p. 156.

land, the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, and in Scotland the commissioners of supply at their ordinary meetings for counties, and town councils within their several jurisdictions, may, from time to time for their respective city, districts, counties, or boroughs, appoint and remove one or more persons possessing competent medical, chemical, and microscopical knowledge as analysts of all articles of food and drink purchased within the said city, metropolitan districts, counties, or boroughs, and may pay to such analysts such salary or allowances as they may think fit; but such appointments and removals shall at all times be subject in Great Britain to the approval of one of her Majesty's principal secretaries of state, and in Ireland to that of the lord lieutenant.

Protection against articles of food and drink being tampered with by purchaser.

III. On the hearing by the justices of any complaint under this act in any district, county, or borough wherein any analyst shall have been appointed, the purchaser shall prove to the satisfaction of such justices that the seller of the article of food or drink alleged to be adulterated, or his servants, had such notice of the intention of the purchaser to have such article analysed, and also such opportunity of accompanying the purchaser to an analyst appointed by this act, as the justices shall think reasonable, in order to secure such article from being tampered with by the purchaser.

Power to purchasers of articles of food and drink to have them analysed.

IV. Any purchaser of any article of food or drink in any district, county, city, or borough where there is any analyst appointed under this act shall be entitled, on payment to the analyst of a sum not less than two shillings and sixpence nor more than ten shillings and sixpence, to have any such article analysed by any analyst who may be appointed for such district, county, city, or borough, and to receive from such analyst a certificate of the result of his analysis, specifying whether in his opinion such article is adulterated, and also whether it is so adulterated as to be injurious to the health of persons eating or drinking the same; and such certificate duly signed by such analyst shall, in the absence of any evidence to the contrary, be sufficient evidence before the justices or in any court of justice of the matters therein certified, and the sum so directed to be paid for such certificate shall be deemed part of the costs.

Certificate of analysts made evidence.

Power to justices to have articles of food and drink analysed.

V. The justices before whom any complaint may be made under this act may, in their discretion, cause any article of food or drink to be examined and analysed by such skilled person as they may appoint for that purpose, who may be required to give evidence of the same at the hearing of the case; and the expense thereof, and of such examination and analysis, if not paid by the complainant or party complained against, shall be deemed part of the expenses of executing this act, but nevertheless such expense may be ordered by such justices to be paid by the party so complaining or complained against, as they shall think proper.

Appeal to quarter sessions.

VI. Any person who has been convicted of any offence punishable by this act by any justices may appeal to the next general or quarter sessions of the peace which shall be held for the city, county, town, or place wherein such judgment or conviction shall have been made, or in the case of the conviction having been before a sheriff substitute in Scotland, then the appeal shall be to the sheriff of the county, provided that such person enter into a recognizance within two days next after such conviction, with two sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the court at such general or quarter sessions, or sheriff, and to pay such costs as shall be by such court awarded; and the justices before whom such conviction shall be had are hereby empowered and required to take such recognizance; and the court at such general or quarter sessions, or sheriff, are hereby authorised and required to hear and finally determine the matter of every such appeal, and may award such costs to the party appealing or appealed against as they shall think proper.

23 & 24 Vict. c. 84.

Where conviction within six days of quarter sessions, time allowed for appeal.

VII. If any such conviction or judgment or order of forfeiture shall happen to be made within six days before any general or quarter sessions of the peace shall be held for the city, county, town, or place wherein such conviction shall have been made, the person who shall think himself aggrieved by any such conviction may, on entering into a recognizance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or quarter sessions of the peace which shall be held for any such city, county, town, or place wherein any such conviction shall have been made, on giving six days notice to the complainant of his intention to appeal.

Persons convicted of selling adulterated patented article may have a case stated for opinion of superior court.

VIII. Any person who shall have been convicted by any justices or sheriff substitute of any offence punishable by this act, in respect of the selling of any article of food or drink which shall have been manufactured according to any process patented before the passing of this act, either by the patentee or owner of the patent, or by any person carrying on his business or otherwise claiming under him during the continuance of such patent, may, instead of appealing to the general or quarter sessions of the peace or sheriff of the county, apply in writing within five days after such conviction to the justices or sheriff substitute, to state and sign a case for the opinion of one of the superior courts of law thereon, in like manner as under the statute of the twentieth and twenty-first years of her Majesty, chapter forty-three, he might have applied to the justices to state and sign a case, and thereupon all such proceedings shall take place upon and in relation to such application, and all such provisions shall be applicable thereto as would have taken place upon and in relation thereto, and been applicable thereto, under the provisions of the said last-mentioned act; and in Scotland, for the purposes of such appeal, the justices or sheriff substitute may state and sign a case for the opinion of the court of session, in like manner as the justices in England and Ireland may, for the opinion of the superior courts of law under the said act, and the court of session shall have in relation thereto the like powers as the superior courts have under the said act, and all the other provisions of the said act shall be applicable to such appeals.

Procedure in cases under this act.

IX. In England the provisions in the Nuisances Removal Act for England, 1855, as to procedure (*a*), and the provisions of the act of the eleventh and twelfth years of the reign of her present Majesty, intituled, "An Act to facilitate the Performance of the Duties of Justices of the Peace and of Session within England and Wales with respect to summary Convictions and Orders" (*b*), and in Scotland the ordinary rules regulating the procedure of justices of the peace, so far as the same are respectively applicable, shall extend and apply to cases arising under this act in England or Scotland; and all monies arising from penalties under this act in any county, city, district, or borough where there are analysts appointed under this act shall, when paid or recovered, be paid in England and Ireland to the vestry, district board, commissioners, county treasurer, or town council for such county, city, district, or borough respectively, to be applied for the general purposes of such vestry, district board, commissioners, county, city, or borough respectively, and to the collector of rogue money for each county in Scotland.

Application of moneys.

Proceedings in Ireland as to complaints, &c., to be subject to provisions of 14 & 15 Vict. c. 93, and 21 & 22 Vict. c. 100.

X. All proceedings under this act in Ireland as to compelling the appearance of any such person or of any witness, and as to the hearing and determination of such complaints, and as to the making and executing of such orders, and as to the applications of fines, amerciaments, and forfeited recognizances imposed or levied under this act at petty sessions, shall be subject in all respects to the provisions of "The Petty Sessions (Ireland) Act, 1851," as the same is amended by "The Petty Sessions Clerk (Ireland Act, 1858," (when the case shall be heard in any petty sessions dis-

(*a*) See 18 & 19 Vict. c. 121, p. 429. (*b*) See note, p. 55.

trict), and to the provisions of the acts relating to the divisional police offices (when the case shall be heard in the police district of Dublin metropolis), so far as the said provisions shall be consistent with any special provisions of this act; and when any fine or penalty is imposed at any of the divisional police offices of Dublin metropolis, or by the justices in any corporate town, under the provisions of this act, such fines and penalties shall be paid over to the same purposes and appropriated and applied in the same manner as is now by law authorised in respect of fines and penalties imposed at such divisional police offices, or by the justices in any such corporate town respectively.

Appeal to quarter sessions.

XI. In Ireland any person who has been convicted of any offence punishable by this act may appeal to the next court of quarter sessions to be held in the same division of the county where the order shall be made by any justice or justices in any petty sessions district, or to the recorder at his next sessions where the order shall be made by the divisional justices in the police district of Dublin metropolis, or to the recorder of any corporate or borough town when the order shall be made by any justice or justices in such corporate or borough town (unless when any such sessions shall commence within seven days from the date of any such order, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town); and it shall be lawful for such court of quarter sessions or recorder, as the case may be, to decide such appeal, if made in such form and manner, and with such notices, as are required by the petty sessions acts respectively hereinbefore mentioned as to appeals against orders made by justices at petty sessions; and all the provisions of the said petty sessions acts respectively as to making appeals and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal or like order to be made under the provisions of this act.

As to expenses of executing act.

XII. The expense of executing this act shall be borne, in the city of London and the liberties thereof, out of the consolidated rates raised by the commissioners of sewers of the city of London and the liberties thereof, in the rest of the metropolis out of any rates or funds applicable to the purposes of the act for the better local management of the metropolis, and in counties out of the county rate, and in boroughs out of the borough fund, or out of the rogue money in counties in Scotland.

Indictment or other remedy not affected.

XIII. Nothing in this act contained shall be held to affect the power of proceeding by indictment, or to take away any other remedy against any offender under this act.

Interpretation of terms.

XIV. In the construction of this act the words "articles of food or drink" shall (if not inconsistent with the context or subject matter) include not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables whatsoever not being medical drugs or articles usually taken or sold as medicines, but this act shall not be construed so as to affect the ordinary reduction of the strength of foreign, British, or colonial spirits by persons licensed and paying duties under the excise.

## 23 & 24 Vict. c. 139.

23 & 24 Vict. c. 139.

***An Act to amend the Law concerning the making, keeping, and carriage of Gunpowder and Compositions of an explosive nature, and concerning the Manufacture, Sale, and Use of Fireworks (a).*** [28th August, 1860.]

9 & 10 W. 3, c. 7. 5 G. 2, c. 12 (I.). 12 G. 3, c. 61.

WHEREAS an act was passed in the session holden in the ninth and tenth years of king William the third, chapter seven, to prevent the throwing or firing of squibs, serpents, and other fireworks; and a like act was passed by the parliament of Ireland in the fifth year of king George the second, chapter twelve; and an act was passed in the twelfth year of king George the third, chapter sixty-one, to regulate the making, keeping, and carriage of gunpowder; and it is expedient to amend the law concerning the making, keeping, and carriage of gunpowder, and to regulate the making and keeping of other compositions of an explosive nature, and to amend the law concerning the manufacture, sale, and use of fireworks: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Commencement of act, and repeal of 9 & 10 W. 3, c. 7, 5 G. 2, c. 12 (I.), and 12 G. 3, c. 61.

I. This act shall (except where herein otherwise expressly provided) take effect from and after the thirty-first day of August one thousand eight hundred and sixty-one, and from and after that day the said acts of the ninth and tenth years of king William the third, the fifth year of king George the second, and the twelfth year of king George the third shall be repealed, except as to any offence theretofore committed against the same, and any penalty theretofore incurred, which offence shall be dealt with and punished and such penalty recovered as if this act had not been passed.

Regulations as to making and keeping of gunpowder.

II. The following regulations shall be observed with regard to the manufacture and keeping of gunpowder; (that is to say,)

No such manufacture shall be carried on except in mills and other places lawfully used for such manufacture at the time of the commencement of this act, or in places licensed for that purpose as hereinafter mentioned:

The quantity of gunpowder or materials to be made into gunpowder to be at one time under any single pair of mill stones, or rollers, or runners, shall not exceed fifty pounds as respects sporting and government powder, and sixty pounds as respects all inferior powders, and every incorporating mill or group of incorporating mills shall be provided with a chargehouse for the store of mill charges properly constructed of stone or brick, and situate at a safe and suitable distance from each incorporating mill or group of incorporating mills:

The quantity of gunpowder to be subjected to pressure at one time in any presshouse shall not exceed ten hundredweight;

The quantity of gunpowder to be corned or granulated at one time in any corning or granulating house shall not exceed twelve hundredweight:

The quantity of gunpowder to be dried at one time in one stove or place used for the drying of gunpowder shall not exceed fifty hundredweight:

The respective quantities to be at any one time in any presshouse, or corning or granulating house, shall not exceed twice the respective quantities hereby allowed to be subjected to pressure, and to be corned or granulated at one time; and the quantity to be at any one

(a) See "Accidents from Gunpowder," p. 145.

time in any drying house or dusting house shall not be more than is necessary for the immediate supply and work of such house; and for the purposes of this provision any building used with any such presshouse, corning or granulating house, drying house, or dusting house, shall be deemed part thereof, save only magazines constructed with stone or brick, and situate forty yards at least from every such presshouse or other house as aforesaid (hereinafter distinguished as expense magazines), and save only the stove in which the powder which has been dried may be cooling:

Every person keeping or using any mill for the making of gunpowder shall have (in addition to the expense magazines) a good and sufficient magazine or magazines at least one hundred and forty yards distant from the mill or mills and every presshouse and other house or place used for or in the making of gunpowder, for the receiving and safely keeping of all gunpowder made at such mill or mills, as soon as such gunpowder can from time to time be conveniently removed to such magazine or magazines, such magazine or magazines to be well and substantially built with brick or stone, and situate in such place as may have been lawfully used or duly licensed by justices before the commencement of this act or may be licensed as hereinafter mentioned, which magazine or magazines is and are hereinafter distinguished as a store magazine or magazines:

Every maker of gunpowder shall with all due diligence cause all finished gunpowder made at his mill or mills to be removed accordingly from such mill or mills and the other places used by him for or in the manufacture of gunpowder, or any magazines or storehouses used therewith, to the said store magazine or magazines required by this enactment to be distant one hundred and forty yards as aforesaid:

Every maker of gunpowder shall cause to be erected or provided good and sufficient thunder rods or lightning conductors in connexion with every store magazine where gunpowder is kept by him, for the protection of such magazine from the effects of lightning.

Power to secretary of state, on application and sufficient cause shown, to sanction the continuance or construction of any magazine within the prescribed distance.

III. Provided always, that at any time after the passing of this act it shall be competent to the owner or lessee or occupier of any expense magazine or any store magazine which shall have been erected before the commencement of this act, and shall be situate within the prescribed distance of forty yards or one hundred and forty yards, and also to any owner, lessee, or occupier of any mill or other place lawfully used for the manufacture of gunpowder before the commencement of this act, who is desirous to construct any expense magazine or store magazine in or in connexion with such mill or other place within such prescribed distance, to present a memorial to one of her Majesty's principal secretaries of state, setting forth that it is not necessary or required for the public safety, or that from the nature of the ground or other sufficient causes it is not practicable or expedient, to remove such magazine to the prescribed distance, or to erect such intended magazine at or beyond such prescribed distance, and thereupon the said secretary of state shall refer the matter of such memorial to such person as he may think fit, to report thereon, and such person shall as soon as practicable thereafter examine the magazine or the site of the intended magazine to which the memorial refers, and the surrounding ground, and shall make a report in writing thereon to the said secretary of state, who shall transmit a copy thereof to the applicant; and if on consideration of the whole matter, and any observations and explanations thereupon by the applicant, and on such further information, if any, as the said secretary of state may require, he shall be satisfied that it is not necessary for the public safety, or is impracticable or inexpedient, to remove such magazine to or beyond the prescribed distance, or to erect the intended magazine at or beyond the prescribed distance, and shall approve the site proposed for the same, he shall certify the same in

23 & 24 Vict. c. 139.

writing under his hand, and deliver such certificate to the said owner, lessee, or occupier, and thereupon the magazine to which such certificate applies, or a magazine erected on the site so approved, (as the case may be,) shall for all purposes be deemed to be at the prescribed distance; and if the said secretary of state shall not be satisfied that any existing magazine to which the memorial refers ought to remain, he shall by writing under his hand order the said magazine to be removed within a period to be therein limited, and such order shall be notified to the applicant or to the occupier of the magazine to which the order relates: provided also, that the use and the continuance of any magazine as to which such application is made to the said secretary of state shall be deemed to be lawful during the pendency of such application, and until the expiration of the time mentioned in the order for its removal.

Penalties for making and keeping gunpowder contrary to this act.

IV. All gunpowder made in any place where under this act it is not lawful to make gunpowder, and all gunpowder in any mill, presshouse, corning house, drying house, dusting house, or other place, exceeding the quantity which for the time being may lawfully be therein, shall be forfeited; and every person making or causing to be made any gunpowder contrary to this act, or keeping or causing to be kept in any such mill or place any gunpowder contrary to the provisions hereinbefore contained, shall for so doing, in addition to such forfeiture as aforesaid, forfeit for every such offence any sum not exceeding two shillings for every pound of gunpowder so forfeited.

Every person making gunpowder without having such store magazine or magazines one hundred and forty yards distant from any mill and every other place used by him for or in the manufacture of gunpowder, shall forfeit any sum not exceeding twenty-five pounds for every month during which such person makes gunpowder without having such magazine or magazines:

And every person making gunpowder who wilfully neglects or delays removing with due diligence the finished gunpowder made at his mill or mills and the other places used by him for or in the manufacture of gunpowder from thence or from the magazines or storehouses used therewith to the store magazine or magazines distant as aforesaid, shall forfeit for every day during which such offence continues any sum not exceeding five pounds.

No charcoal to be kept within twenty yards of any mill, &c.

V. No maker of gunpowder shall keep or permit to be kept any charcoal within twenty yards of any mill or other engine for making gunpowder, or of any presshouse, or drying, corning, or dusting house, or other place used in or for the making of gunpowder, or any magazine or storehouse thereto belonging; and any maker of gunpowder who acts contrary to this enactment shall forfeit any sum not exceeding five pounds, or, where such charcoal is so kept for a longer period than a week, any sum not exceeding five pounds for every week during which such charcoal is so kept.

Regulations as to the making of loaded percussion caps and the making and keeping of ammunition, &c.

VI. The following regulations shall be observed with regard to the manufacture of loaded percussion caps, and the manufacture and keeping of ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature; (that is to say,)

No such manufacture shall be carried on without such licence for that purpose as hereinafter mentioned, or within the respective distances hereinafter mentioned, and set opposite to the descriptions of the respective articles; (that is to say,)

| | |
|---|---|
| Percussion caps . . . . . | 50 yards, |
| Ammunition . . . . . | 100 yards, |
| Fireworks . . . . . | 50 yards, |
| Fulminating mercury or other preparation or composition of equally explosive power . . . . | 100 yards, |

from any dwelling house or any building in which persons not connected with the same manufacture are employed : 23 & 24 Vict c. 139.

No such articles as aforefaid, except percussion caps, exceeding the respective quantities hereinafter mentioned and set opposite to the descriptions of the respective articles ; (that is to say,)

| | |
|---|---|
| Ammunition containing five pounds of gunpowder, | |
| Fireworks containing ten pounds of explosive compound, | |
| Fulminating mercury or other preparation or composition of equally explosive power . . . | 1 oz. dry, or 8 oz. mixed with 25 per cent. of water, |

shall be kept in any place not licensed for that purpose as hereinafter mentioned, and no such articles shall be kept in any place so licensed in excess of the respective quantities specified in the licence in that behalf :

The operation of mixing the composition for percussion caps shall be performed in a building situate at a distance not less than twenty yards from any other workshop, and no greater quantity than five pounds of cap composition shall at any one time be in the building where the operation of mixing is performed :

No fulminating mercury, except that which is being used in the actual preparation of the cap composition, shall be kept in any building where the operation of preparing such composition is performed, without being mixed with at least twenty per cent. of water.

The operation of loading percussion caps shall be performed in a building where no other explosive material than that employed in loading percussion caps is used or kept, and no greater quantity than twenty-four ounces of cap composition shall at any one time be in the building where the operation of loading is performed :

The operation of filling or charging cartridges shall be performed in a building situate at a distance not less than twenty yards from the other workshops connected with the manufacture ; and no greater quantity than fifty pounds of gunpowder, either loose or made up into cartridges, or what is equivalent, as regards explosive power, to fifty pounds of gunpowder (if other explosive materials be used), shall at any one time be in any workshop connected with the manufacture :

The operation of charging or filling fireworks with explosive materials shall be performed in a building situate at a distance not less than twenty yards from the other workshops connected with the manufacture ; and no greater quantity of the ordinary explosive composition used in the manufacture of fireworks than thirty pounds, whether loose or made up, or what is equivalent, as regards explosive power, to thirty pounds of the ordinary gunpowder, shall at any one time be in any building where the operation of filling or charging is performed :

The manufacture of such fireworks as contain detonating composition, or composition which is more easily ignited by percussion or friction, than ordinary gunpowder, shall be conducted in a building or buildings situate at a distance not less than thirty yards from the other workshops, and no greater quantity than ten pounds of such composition shall at any one time be in any building :

Every person keeping or using any factory for the making of ammunition or fireworks shall have, at a distance of not less than fifty yards from any workshop connected with the manufacture, a magazine or magazines, built with brick or stone, for the receiving and safely keeping the gunpowder or other explosive materials used in the manufacture, and the cartridges or fireworks (as the case may be) made at such factory.

VII. All loaded percussion caps made, and all ammunition, fireworks, Penalties

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fulminating mercury, or other explosive preparations or compositions made or kept, in any place where under this act it is not lawful to make percussion caps, or to make or (as the case may be) keep ammunition, fireworks, fulminating mercury, or other explosive preparations or compositions, and any quantity of ammunition, fireworks, fulminating mercury, or other explosive preparation or composition kept in any place where under this act it may be lawful to keep such ammunition, fireworks, fulminating mercury, or other explosive preparation or composition, exceeding the quantity which may be lawfully kept there, shall be forfeited; and every person making or causing to be made percussion caps, or making or keeping or causing to be made or kept ammunition, fireworks, fulminating mercury, or other explosive preparation or composition, contrary to this act, shall for so doing, in addition to such forfeiture as aforesaid, forfeit for every such offence any sum not exceeding ten pounds.

For making loaded percussion caps or making or keeping ammunition, &c., contrary to this act.

No person to sell fireworks without a licence.

VIII. It shall not be lawful for any person to sell or offer or expose to sale any firework without such licence for that purpose as hereinafter mentioned, and no such firework shall be sold to any person apparently under sixteen years of age, and any person offending against this enactment shall for every offence forfeit any sum not exceeding five pounds.

Penalty for throwing fireworks in thoroughfares.

IX. If any person throw, cast, or fire, or aid or assist in throwing, casting, or firing, any squib, serpent, rocket, or other firework in or into any thoroughfare or public place, he shall for every such offence forfeit any sum not exceeding five pounds.

Justices to license places for making and keeping gunpowder.

X. It shall be lawful for the justices of the peace for each county or other division, at their general quarter sessions (*a*), upon application made to them by any person, from time to time to license the erecting or having new mills for making gunpowder, with proper presshouses and other houses and places to be used for or in the making of gunpowder, and magazines near thereto, and also the erecting or having magazines for keeping unlimited quantities of gunpowder in such respective places, not being within London or Westminster, or any other limits hereinafter described, as may appear to them proper.

Justices to license places for making loaded percussion caps and making and keeping ammunition, &c.

XI. It shall be lawful for the justices of the peace for each county or other division, at their general quarter sessions (*b*), or for the council of any borough, upon application made to them by any person, from time to time to license places for the making of loaded percussion caps, and for the making and keeping respectively of ammunition, fireworks, fulminating mercury, or other explosive preparations or compositions, and to determine the quantities of such articles respectively to be kept in any place so licensed, and to grant licences to persons to sell fireworks.

Notice of intention to apply for licence.

XII. Provided always, that every person making any application for any such licence as aforesaid shall give notice in writing of the intention to make the same, as also of the place or places proposed for the purposes aforesaid respectively, fourteen days before making it, as hereinafter mentioned; (that is to say,) such notice shall be given, where application is made in England, to an overseer or churchwarden of the parish or place in which it is proposed to erect or make any such new mill, with such houses and places as aforesaid, or any such magazine, or to make or use any building or place for any of the purposes aforesaid, or of an adjoining parish, if the place be extra-parochial, and have no overseer; and where the application is made in Scotland, to the schoolmaster of the parish, or if there be no such schoolmaster, to the session clerk; and where the application is made in Ireland, to the clerk of the union within which the parish is included; and such applicant shall also in every such case

(*a*) In petty sessions, 24 & 25 Vict. c. 130, s. 1, p. 527; or (in Dublin) two or more divisional police magistrates, 25 & 26 Vict. c. 98, s. 2, p. 532.
(*b*) In petty sessions, 24 & 25 Vict. c. 130, s. 1, p. 527.

ause the like notice to be affixed on the outside of the door or of the wall ear the door of every church and chapel in such parish or place (including laces of public worship not belonging to the established church), pre- iously to the commencement of divine service on a Sunday ten days at east before the making of such application.

Justices may make licences conditional on precautions prescribed by them for preventing danger, being observed.

XIII. The justices licensing the erecting or having of any new mills and ther places to be used for or in making gunpowder, or any magazine near hereto, or any magazine for keeping unlimited quantities of gunpowder, nd the justices or council licensing any place for the making of loaded ercussion caps, or for the making or keeping of ammunition, fireworks, ulminating mercury, or any other explosive preparation or composition, nay, if they see fit, grant their licence conditionally upon such pre- autionary measures being taken and maintained with regard to the tructural arrangements of every such mill, magazine, or place, the rection of mounds or screens to separate the same from any inhabited ouse, and otherwise, as they may deem proper for diminishing the risk of anger to life by explosions.

In case of refusal of licence, the applicant may memorialise secretary of state, who shall have power notwithstanding such refusal to grant the licence.

XIV. If on any application for the licensing of any new mill or other lace to be used for or in making gunpowder, or any magazine near hereto, or any magazine for keeping unlimited quantities of gunpowder, he justices shall refuse the licence, or grant the same only on conditions vith which the applicant shall be dissatisfied, they shall, if so required by he applicant, certify such refusal or conditions, and the grounds thereof, n writing, to be signed by the chairman presiding at the hearing, and hall deliver the certificate to the applicant, who may thereupon, within en days from the time of the delivery thereof, transmit the same to one f her Majesty's principal secretaries of state, together with a memorial raying that, notwithstanding such refusal, the licence may be granted, or hat such conditions may not be imposed, or may be altered or modified n such manner and to such extent as shall be set forth in such memorial; nd it shall be lawful for the said secretary of state, if he shall so think it, on consideration of such memorial and certificate, and if he shall think t necessary or desirable, after due inquiry from and a report by such person as he may appoint for that purpose, to grant the licence prayed for, either absolutely or with such conditions as he shall think fit, or to alter or modify the conditions imposed by the justices; and the licence so granted, or altered and modified, as the case may be, certified under the hand of the said secretary of state, shall be to all intents as valid and effectual as if made and granted by the said justices (*a*).

Owners of mills may make rules for their servants and workmen for preventing accidents.

XV. It shall be lawful for the owner or occupier of any mill, magazine, or place in which gunpowder, ammunition, fireworks, fulminating mercury, or any other explosive preparation or composition is manufactured or kept, or loaded percussion caps are manufactured, from time to time to make such rules as he may think fit for the purpose of regulating the conduct of his servants and workmen employed in such mill, magazine, or place, so as to prevent as far as may be accidents by explosion, and from time to time to alter or rescind any such rules, and make others, provided such rules be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this act; and such rules shall be signed by such owner or occupier, and a copy thereof shall be given to every servant or workman employed in such mill, magazine, or place, who may be affected thereby, and shall be affixed in the mill, magazine, or place to which the same relate.

Penalty for doing any act in any mill, &c., tending to

XVI. Any servant or workman of any owner or occupier of any mill, magazine, or place in which gunpowder, ammunition, fireworks, fulminating mercury, or any other explosive preparation or composition is manufactured or kept, or loaded percussion caps are manufactured, who

(*a*) See 24 & 25 Vict. c. 130, s. 2, p. 527.

23 & 24 Vict. c. 139.

violates the rules made as aforesaid, and any such servant or workman, or any other person, who does or attempts to do any act in, to, or about such mill, magazine, or place tending to cause explosion, or who brings into such mill, magazine, or place any thing tending to cause explosion, shall for every such offence be subject to a penalty not exceeding five pounds, on summary conviction before any justice of the peace, or in Scotland before any sheriff, justice of the peace, or magistrate; and any such servant or workman as aforesaid, or other person so acting, may be apprehended without a warrant by any peace officer or other officer of the law, or the owner or occupier of such mill, magazine, or place, or his servant, or by any other person authorised by such owner or occupier, or his agent or manager, and removed from the mill or other premises, and may be conveyed with all convenient despatch before some justice, or in Scotland before any sheriff, justice, or magistrate, and such justice, sheriff, or magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against the offender.

Causing explosion.

Secretary of state may authorise persons to inspect mills, &c.

XVII. It shall be lawful for one of her Majesty's principal secretaries of state to authorise, from time to time, such person as he may see fit to inspect and examine any mill, magazine, or place in which gunpowder, ammunition, fireworks, fulminating mercury, or any other explosive preparation or composition is manufactured or kept, or supposed to be manufactured or kept, or loaded percussion caps are made or supposed so to be, in order to see whether or not the regulations of this act concerning the manufacture and keeping of gunpowder, and such other matters as aforesaid, and concerning the making of loaded percussion caps, are complied with, and to report to such secretary of state thereon; and every person so authorised shall have authority to enter, inspect, and examine any such mill, magazine, or place, at all reasonable times in the daytime, without any previous notice for that purpose, and the owner or occupier of every such mill, magazine, or place is hereby required to furnish the means necessary for such entry, inspection, and examination:

Any owner or occupier of any mill, magazine, or place which any such person authorised by the secretary of state is empowered to enter, inspect, and examine, who refuses or neglects to furnish to such person the means necessary for making his entry, inspection, and examination, and every person who wilfully obstructs any such person in the execution of his powers, shall for every such offence forfeit five pounds.

Limitation of quantities of gunpowder to be kept by persons other than manufacturers.

XVIII. No person shall have or keep at one time, being a dealer in gunpowder, or manufacturer of cartridges, fireworks, or rockets (a), more than two hundred pounds of gunpowder, and, not being such dealer or manufacturer, more than fifty pounds of gunpowder in any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other building or place, (and for the purposes of this enactment all buildings and places adjoining to each other, and occupied together, shall be deemed one house or place,) or on any river or other water, (except in carriages loading or unloading or passing on the land, or in ships, boats, or vessels, loading or unloading, or passing on any river or other water, or detained there by the tide or bad weather,) within the following limits, being the limits within which gunpowder mills or magazines may not be licensed under this act; (that is to say,) within the City of London or Westminster, or within three miles of either of them; or within any borough or market town, or one mile of the same; or within two miles of any palace or house of residence of her Majesty, her heirs or successors; or within two miles of any gunpowder magazine belonging to the crown; or within half a mile of any parish church; or in any place beyond the limits aforesaid, except in mills or other places which at the commencement of this act shall be lawfully used for the making of gunpowder, and the magazines, store-

(a) Or for the manufacture of safety fuzes, 24 & 25 Vict. c. 130, s. 4, p. 537.

houses, and offices near and belonging thereto, and in the magazines in which greater or unlimited quantities of gunpowder may be lawfully kept at the commencement of this act, and in the places where it shall be lawful to make gunpowder, or to keep greater or unlimited quantities of gunpowder, under the provisions of this act; and all gunpowder kept beyond the quantity hereby allowed, and the barrels or receptacles in which such gunpowder shall be kept, shall be forfeited, and any person keeping the same shall for every such offence forfeit not exceeding two shillings for every pound of gunpowder kept beyond the allowed quantity. 23 & 24 Vict. c. 139.

Gunpowder may be kept for mines under certain conditions.

XIX. It shall be lawful for any person to keep, exclusively for the use of any mine, quarry, or colliery (a) any quantity of gunpowder not exceeding three hundred pounds weight at any one time in any magazine or warehouse, so as such magazine or warehouse be within two hundred yards of such mine, quarry, or colliery, and (unless erected and used for this purpose before the passing of this act) be not within two hundred yards from any inhabited house, without the consent in writing of the occupier of such house; and it shall be also lawful for any person to keep, exclusively for the use of one or more mine, quarry, or colliery, mines, quarries, or collieries (a), any greater quantity of gunpowder not exceeding four thousand pounds at any one time in any magazine, so as such magazine be well and substantially built of brick or stone, and, save where continued or erected under a certificate of the secretary of state as hereinafter mentioned, be within two hundred yards of the respective mine, quarry, or colliery, or one of the mines, quarries, or collieries, for the use of which such gunpowder is kept, and not within any of the limits hereinbefore particularly described, and not within two hundred yards from any inhabited house, without the consent in writing of the occupier of such house: provided always, that the owners, lessees, or occupiers of any mine, quarry, or colliery, having for the use thereof a magazine not situated as prescribed by this enactment, or being desirous of erecting a magazine not so situated, may make application by memorial to one of her Majesty's principal secretaries of state, in the like manner and for the like causes as hereinbefore provided in relation to the continuance or erection of an expense magazine or store magazine within the prescribed distance, and the secretary of state may, by his certificate, authorise the continuance or erection of the magazine to which the application relates, either absolutely or conditionally on such precautionary measures being taken and maintained as he may deem proper.

Not more than thirty barrels by land, and five hundred by water, to be conveyed at one time.

XX. No person shall have or convey at one time more than thirty barrels of gunpowder in any waggon, cart, or other carriage by land, except in a van specially constructed for that purpose, enclosed on every side with wood, and then not more than forty barrels, and unless such carriage form part of a railway train, and then not more than one hundred barrels in any carriage forming part of such train; and no person shall have or convey at one time, within the United Kingdom, more than five hundred barrels of gunpowder in any barge, boat, or other vessel by water, except in vessels with gunpowder imported from or to be exported to any place beyond the sea, or going coastwise; and all gunpowder conveyed on land or water (except in such vessels for importation or exportation of gunpowder, or going coastwise,) shall be in barrels, close joined and hooped, or in copper, zinc, or tin cases or canisters, enclosed in wooden boxes or barrels, without any iron about such boxes or barrels, and so secured that no part of the gunpowder be scattered in the passage; and each barrel shall contain no more than one hundred pounds of gunpowder; and every carriage in which gunpowder shall be conveyed by land shall have a complete covering of wood, painted cloth, tarpaulin, or wadmill tilts, over all the gunpowder therein contained; and no gunpowder shall

(a) Or for the manufacture of safety fuzes, 24 & 25 Vict. c. 130, s. 4, p. 527.

23 & 24 Vict. c. 139.

be conveyed by water in any barge, boat, or other vessel not having a close deck (except in vessels with gunpowder imported or to be exported in manner aforesaid, or going coastwise); and as soon as any gunpowder is put on board such vessel, all such gunpowder shall be covered with raw hides or tarpaulins; and where any gunpowder conveyed by land or water is contained in any receptacles hereby authorised other than barrels, no greater quantity shall be so conveyed than shall be equivalent to what might lawfully have been so conveyed if the same had been contained in barrels:

And all gunpowder which shall be carried or conveyed (except in such vessels with gunpowder for importation or exportation as aforesaid, or going coastwise,) within any part of the United Kingdom in greater quantity or in other manner than is hereinbefore prescribed, and the barrels or other receptacles in which such gunpowder shall be, may be seized by any person, who shall have the same authority to remove such gunpowder and barrels or receptacles, and to use for that purpose, during the space of twenty-four hours after seizure, the carriage or vessel in which such gunpowder shall be seized, and the tackling, beasts, and accoutrements belonging thereto, on the terms of paying a recompense for the use thereof, and to detain such gunpowder and barrels or receptacles, as is hereinafter given to persons searching under a warrant of a justice of the peace, sheriff, or magistrate, and such seizure shall be for the use of the person making the seizure, on conviction of the offender or offenders.

No gunpowder to be loaded until that condemned be unloaded.

XXI. When any barge, boat, or vessel, having stale, condemned, or returned gunpowder on board, arrives at the quay, wharf, or other place where the same is intended to be landed, no person shall begin to unload, or shall bring down to such wharf, quay, or other place with intent to load, in such vessel, any other gunpowder, until the whole or part of such stale, condemned, or returned gunpowder be first unloaded or carried away from such wharf, quay, or other place of landing; and after such unloading and carrying away of part of such gunpowder no person shall begin to load or shall so bring down with intent to load any greater quantity of other gunpowder than the part unloaded and carried away, on pain of forfeiting all gunpowder so loaded or brought down contrary to this enactment (*a*).

Penalty for smoking, &c., on board vessels loaded with gunpowder.

XXII. Any person having the care or management of any barge, boat, or other vessel whatsoever (except ships or vessels with gunpowder on board imported from or to be exported to places beyond sea, or going coastwise,) loaded with gunpowder, or any other person on board the same, who brings, has, or uses, or permits any person to bring, have, or use, any charcoal, lucifer matches, or other combustible matter, or any fire or lighted candle, during the time of loading or unloading, or when the hatches are open, or smokes or wittingly permits any person to smoke on board such barge, boat, or vessel, shall for every such offence forfeit any sum not exceeding five pounds.

Penalty for undue delay in loading or unloading gunpowder.

XXIII. No person having the care of any waggon, cart, or other carriage used for the conveyance of gunpowder by land shall, after beginning to place or load therein any quantity of gunpowder, or beginning to unload the same thereout, stop or stay at any place of loading, or in the loading or unloading suffer any longer time to pass than with the use of all due diligence shall be reasonably necessary for the purpose of loading or unloading; and no person, having the charge or care of any barge, boat, or other vessel used for the conveyance of gunpowder by water, (except in the case of vessels loading for importation or exportation of gunpowder to or from places beyond sea, or going coastwise,) shall, after beginning to load or unload any quantity of gunpowder, stop or stay at any wharf,

(*a*) As to regulating the entry of ships into port with powder on board, &c., see 54 Geo. 3, c. 159, s. 6.

quay, or other place of loading, or in the loading or unloading thereof suffer any longer time to pass than with the use of all due diligence shall be reasonably necessary for the purpose of loading or unloading, not exceeding eighteen hours, unless hindered by the weather; and every person offending against this enactment shall for each offence forfeit any sum not exceeding ten pounds.

Foregoing provisions to extend only to carriage of more than 100 lbs. of gunpowder.

XXIV. None of the aforesaid provisions for or relative to the conveyance of gunpowder, or the loading or unloading thereof, shall extend to any other waggon, cart, or land carriage, or any other boat, barge, or vessel, than such as shall be loaded with or employed in conveying a quantity of gunpowder exceeding one hundred pounds weight.

Power to justices to issue warrants to search.

XXV. It shall be lawful for any justice of the peace, and in Scotland for any sheriff, justice of the peace, or magistrate, within the limits of whose jurisdiction gunpowder (*a*) is suspected to be made, kept, or carried contrary to this act, on demand made, and reasonable cause assigned upon oath by any person, to issue a warrant under his hand and seal, or in Scotland under his hand, for searching in the daytime any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, ship, boat, or vessel, in which such gunpowder is suspected to be made, kept, or carried contrary to this act; and all gunpowder found to be made, kept, or carried contrary to this act, and also the gunpowder barrels or other receptacles, shall be immediately seized by the searcher, who shall with all convenient speed after the seizure remove such gunpowder, and the barrels or other receptacles in which it shall be, to such proper places as he, in conformity to the restrictions of this act, shall think fit, and in the case of any such gunpowder seized in any carriage or vessel may use for the purpose of removal, during the space of twenty-four hours after seizure, such carriage or vessel, with the tackling, beasts, and accoutrements belonging thereto, (paying afterwards to the owner or owners thereof a sufficient recompense for the use thereof, to be settled by the justices, sheriff, or magistrates before whom the complaint shall be heard, after the seizure, and in case of nonpayment immediately after settlement by such justices, sheriff, or magistrates, to be recoverable as in the case of pecuniary penalties under this act,) and may detain such gunpowder, and the barrels or other receptacles in which it shall be, till it shall be adjudged, on a hearing before two or more such justices or magistrates, or before the sheriff, whether the same shall be forfeited; and such searcher or seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to the said gunpowder or barrels or other receptacles, other than by his wilful act or neglect or the wilful act or neglect of the persons with whom he shall intrust the keeping thereof: provided, that where any gunpowder is seized under this provision, proceedings for the forfeiture thereof shall be commenced within twenty-eight days after such seizure.

Regulations for the security of the vessels in the river Thames.

XXVI. No master or commander of any ship or other vessel lying in the Thames, and outward bound, shall receive or permit to be received on board any such ship or vessel more than twenty-five pounds of gunpowder (except for the Queen's service) before the arrival of such ship or vessel at, over, against, or below Blackwall, and the master or commander of every ship or vessel coming into the river Thames shall (except in the case of gunpowder for the service of the crown) put on shore in proper places, in conformity to the restrictions of this act, all the gunpowder on board such ship or vessel above the quantity of twenty-five pounds, either before the arrival of such ship or vessel at Blackwall, or within twenty-four hours (if the weather shall permit) after coming to an anchor there, or to the

(*a*) Loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature, 25 & 26 Vict. c. 98, s. 1, p. 532.

23 & 24 VICT. c. 139.

place of unloading there, and shall not afterwards have on board more than twenty-five pounds of gunpowder (except for the service of the crown), on pain of forfeiting for every offence in any of the said cases all the gunpowder found on board above the weight of twenty-five pounds, and the barrels or other receptacles in which such gunpowder shall be, and also not exceeding two shillings for every pound of gunpowder above the quantity of twenty-five pounds.

Conservators of the river Thames to appoint searchers.

XXVII. The conservators of the river Thames for the time being shall from time to time appoint one or more of the harbour masters of the port of London, or other person or persons, a searcher or searchers for unlawful quantities of gunpowder (*a*) in ships or other vessels in the river Thames, which person or persons so appointed are hereby authorised, at any time between sun-rising and sun-setting, to enter any ship or vessel (except her Majesty's ships) in the river Thames, above Blackwall, and to search the same for unlawful quantities of gunpowder, and also shall have the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other receptacles in which such gunpowder shall be, as are hereinbefore given to persons searching for unlawful quantities of gunpowder under a warrant of a justice of the peace.

Forfeitures and penalties recoverable summarily.

XXVIII. Any forfeiture or penalty, or forfeiture and penalty, (as the case may be,) for any offence against this act, and not herein otherwise provided for, may be enforced and recovered upon summary conviction of such offence before any two justices, or in Scotland, before any sheriff or any two justices or magistrates; and, save as herein otherwise provided, one moiety of every forfeiture and penalty for any offence against this act, or violation of any rules made thereunder, shall belong to her Majesty, and the other moiety to the informer, anything in any act to the contrary notwithstanding: provided always, that if the informer be a person appointed under this act by the secretary of state, or a servant of the person informed against, the moiety of the penalty which would otherwise belong to the informer shall be applied in such manner and to such other purposes as the justices, sheriff, or magistrates in their discretion think fit: provided also, that such forfeitures and penalties and the expenses attending the conviction, may be levied and recovered in Scotland by poinding and sale, and in default of payment, or of sufficient poinding, by imprisonment for any period not exceeding three months.

The lord lieutenant or chief secretary in Ireland to have the like authorities as are before given to the secretary of state.

XXIX. Where under any of the provisions hereinbefore contained application may be made to one of her Majesty's principal secretaries of state, an application in relation to the like matter in Ireland may be made by memorial, to the lord lieutenant or other chief governor or governors of Ireland, or his or their chief secretary, and such lord lieutenant or chief governor or governors, or his or their chief secretary, shall and may have and exercise in Ireland, as well in relation to the matter of any such application as for and in relation to the inspection and examination of mills and other places, the same authorities and discretion, and may grant and make certificates, licences, and orders having the like force and effect, as hereinbefore provided in relation to the secretary of state; and all the provisions of this act having reference to the secretary of state shall, in relation to any matter arising in Ireland, take effect as if the lord lieutenant or other chief governor or governors, or his or their chief secretary, had been mentioned or referred to instead of such secretary of state.

Act not to extend to mills erected on crown lands, &c.

XXX. This act shall not extend to any mills or other buildings erected or which may be erected for the purpose of making gunpowder on any lands belonging to or held for the service of the crown, or to the keeping of gunpowder at any storehouse or magazine belonging to or held for the service of the crown, or to the manufacture, loading, or keeping of per-

(*a*) Loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature, 25 & 26 Vict. c. 98, s. 1, p. 532.

cussion caps, ammunition, fireworks, or any preparation or compound of an explosive nature, in any place belonging to or held for the service of the crown, or to hinder the trial of gunpowder by her Majesty's officers, as is usual, for the service of the crown, or to the keeping of gunpowder at the magazines now erected for that purpose at Barking Creek's mouth in the county of Essex and Erith Level in the county of Kent, or to the keeping of gunpowder at the magazines or storehouses now erected near the city of Bristol, or to the keeping of gunpowder in vessels moored in the river Mersey under the provisions of the act of the session holden in the fourteenth and fifteenth years of her Majesty, chapter sixty-seven, or to the carriage of gunpowder to or from magazines belonging to the crown, under a special and express order of the secretary of state for war, such order to contain the quantity of gunpowder so to be carried, and the time for which such order shall be in force, or to the carriage of gunpowder with forces on their march, or with the militia or volunteer corps during their exercise, or which shall be sent for the use of such forces, militia, or volunteer corps. 23 & 24 Vict. c. 139.

XXXI. This act shall not extend to repeal or alter the act of the fifty-fourth year of King George the third, chapter one hundred and fifty-nine, or to gunpowder, percussion caps, or combustible articles on board any ship, vessel, or boat of her Majesty or in her Majesty's service, or required or kept for the use of her Majesty's navy, her Majesty's royal marine forces, the royal naval coast volunteers, the royal naval volunteers, or any force which is or may be under the orders or control of the commissioners for executing the office of lord high admiral of the United Kingdom. Act not to affect 54 G. 3, c. 159, or to gunpowder, &c., on board her majesty's ships, &c.

XXXII. This act shall not extend to prevent the keeping of gunpowder in the proof houses of the two companies authorized by "The Gun Barrel Proof Act, 1855," or in magazines connected with such proof houses, provided that the quantity of gunpowder kept at the same time in any one such proof house, and the magazine (if any) connected therewith, do not exceed in the whole five hundredweight. Saving for proof houses under 18 & 19 Vict. c. cxlviii. (*local*).

XXXIII. This act shall not extend to hinder any person or persons from carrying or conveying an unlimited quantity of gunpowder, in such close-decked vessels and manner as hereinbefore is directed, from any ships or vessels lying below Blackwall, to any of the magazines for gunpowder so situate below Blackwall, or from such magazines to any ships or vessels lying below Blackwall, and going to any place beyond sea or coastwise, or from the floating magazines in the river Mersey to any ships or vessels going to any place beyond seas or coastwise, or from any ships or vessels arriving from any place beyond seas or coastwise to the said floating magazines. Not to extend to hinder unlimited quantities of gunpowder being conveyed from ships below Blackwall.

XXXIV. This act shall not extend or be construed to repeal or affect the provisions concerning gunpowder in and near the London docks in sections one hundred and thirty-four and one hundred and thirty-five of the act of the ninth year of King George the fourth, chapter one hundred and sixteen (local and personal). Saving of enactment for protection of London Docks.

XXXV. This act shall not extend or be construed to repeal or affect the provisions with respect to gunpowder magazines, gunpowder, or fireworks contained in any general or local police act which may be in force in any place in the United Kingdom. Saving for provisions of police acts.

XXXVI. And whereas by an act of the session holden in the second and third years of her Majesty, chapter forty-seven, "for further improving the police in and near the metropolis," every superintendent or inspector belonging to the metropolitan police force is empowered as therein mentioned to enter any ship, boat, or vessel (except her Majesty's ships) in the river Thames, and the docks and creeks adjacent thereto, and to search the same for unlawful quantities of gunpowder, and to exercise the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship, boat, or 2 & 3 Vict. c. 47. and 9 & 10 Vict. c. 25, to be construed as referring to this act.

23 & 24 Vict. c. 139.

vessel, and the barrels or other packages containing such gunpowder, as are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by virtue of the said act of the twelfth year of King George the third; and by an act of the session holden in the ninth and tenth years of the reign of her Majesty, chapter twenty-five, "for preventing malicious injuries to persons and property by fire or by explosive or destructive substances," any justice of the peace is empowered as therein mentioned to issue a warrant for searching in the day-time any place or vessel in which gunpowder or other explosive, dangerous, or noxious substance is suspected to be made or kept for the purpose of being used in committing an offence under that act; and it is enacted, that every person acting in the execution of any such warrant shall have, for seizing, removing to proper places, and detaining all gunpowder, explosive, dangerous, or noxious substances found upon such search which he shall have good cause to suspect to be intended to be used in committing an offence under that act, and the barrels, packages, and cases in which the same shall be, the same powers which are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice by the said act of the twelfth year of King George the third:

All powers given by the said acts of the second and third years and ninth and tenth years of her Majesty, or by any act passed or to be passed in this present session of parliament, by reference to the said act of the twelfth year of King George the third, shall be construed as if this act had been referred to in the said acts of her Majesty, instead of the said act of King George the third.

Meaning of the word "borough."

XXXVII. In the construction of this act the term "borough" shall mean and include any place for the time being subject to the provisions of the act of the session holden in the fifth and sixth years of King William the fourth, chapter seventy-six; and in Scotland any royal burgh and any of the burghs or towns returning or contributing to return members to parliament; and in Ireland any place for the time being subject to the provisions of the act of the session holden in the third and fourth years of her Majesty, chapter one hundred and eight.

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## 24 & 25 Vict. c. 59.

24 & 25 Vict. c. 59.

*An Act to facilitate Proceedings before Justices under the Acts relating to Vaccination* (*a*). [1st August, 1861.]

Whereas it is expedient to make further provisions in relation to proceedings before justices under the following acts; that is to say,—

3 & 4 Vict. c. 29 (*b*).

An act passed in the session holden in the third and fourth years of the reign of her present Majesty, chapter twenty-nine, intituled "An Act to extend the Practice of Vaccination:"

4 & 5 Vict. c. 32 (*c*).

An act passed in the session holden in the fourth and fifth years of the reign of her present Majesty, chapter thirty-two, intituled "An Act to amend an Act to extend the Practice of Vaccination:"

16 & 17 Vict. c. 100 (*d*).

An act passed in the session holden in the sixteenth and seventeenth years of the reign of her present Majesty, chapter one hundred, intituled "An Act further to extend and make compulsory the Practice of Vaccination:"

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in

(*a*) See "Vaccination," p. 165. (*b*) See p. 202.
(*c*) See p. 206. (*d*) See p. 334.

this present parliament assembled, and by the authority of the same, as follows: 24 & 25 Vict. c. 50.

I. This act may be cited for all purposes as "The Vaccination Acts Amendment Act, 1861." Short title.

II. The guardians of any union or parish, or the overseers of any parish where the relief to the poor is not administered by guardians, may appoint some person to institute and conduct proceedings for the purpose of enforcing obedience to the said acts or any of them within their union or parish; and as to all expenses incurred by any person so appointed, or by any registrar of births and deaths, or by any medical officer of health appointed under an act of parliament, in proceedings for enforcing penalties under the said acts or any of them, if the justices or court before whom such proceedings are had certify that such expenses ought to be allowed, such court or justices shall ascertain the amount thereof, and such amount shall be payable out of the rates for the relief of the poor of the parish where the person for the time being dwells in respect of whose default or offence the same were instituted; and the court or justices shall ascertain the amount of such expenses. And proceedings for enforcing penalties under any of the said acts, on account of neglect to have a child vaccinated, may be taken at any time during which the parent or guardian is in default. As to institution of legal proceedings and payment of expenses of the same.

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## 24 & 25 Vict. c. 61.

### *An Act to amend the Local Government Act.*

[1st August, 1861.] 24 & 25 Vict. c. 61.

Whereas it is expedient to amend "The Local Government Act, 1858:" be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. Ratepayers or owners making a requisition for the summoning of meetings for the purpose of deciding as to the adoption of "The Local Government Act, 1858 (*a*)," shall, if required, give security in a bond, with two sufficient sureties, for repayment to the summoning officer, in the event of the act not being adopted, of the costs incurred in relation to such meetings or polls taken in pursuance of any demand made at such meetings, the amount of the security to be given by such sureties, and their sufficiency, and the amount of such costs, to be settled by agreement between the summoning officer and such ratepayers or owners, or in the event of disagreement between them by any justice of the peace acting in and for the place in which it is proposed that the said act shall be adopted. Provision as to costs of proceedings with a view to adopting the local government act, when that act is not adopted.

II. The power of adopting any part of "The Local Government Act, 1858," given by the fifteenth section of that act to any corporation or body of commissioners exercising powers for sanitary regulation under the provisions of any local act, shall extend to every local authority invested with powers of town government and rating by any local act, by whatever name such local authority is called, and the words "local board" or "board of commissioners" as used in the said local government act shall apply to such local authority: provided always, that whenever the members of such local authority are elected for life they shall adopt, in lieu of the provisions for elections contained in the local act, the provisions for and in relation to elections prescribed by "The Public Health Act, 1848," and "The Local Every local authority invested with powers of town government may adopt any part of local government act: Provision for election of such local au-

(*a*) See 21 & 22 Vict. c. 98, p. 457.

24 & 25 Vict. c. 61.

Government Act, 1858," and within one month of such adoption one-third of the members of such local authority shall retire, the order of retirement to be fixed by the local authority, and the election of members in lieu of such retiring members shall be governed in all respects by the said "Public Health Act, 1848," and "Local Government Act, 1858," and be conducted by the chairman of the local authority: provided also, that such adoption shall not affect the qualification fixed for members of such local authority by the local act under which it is constituted, or the qualification and tenure of office of *ex officio* members of such local authority.

Authorities when elected for life at the time of adopting local government act.

Accounts of improvement commissioners acquiring borrowing powers under local government act to be subject to the provisions

III. When any board of improvement commissioners acquires powers of rating or borrowing money under the fifteenth section of the "Local Government Act, 1858," the provisions in relation as to audit of that act, or of any act amending that act, shall be in force in the case of such commissioners, as if such provisions were contained in the local act under which they are constituted; and when the provisions as to audit of such local act are repugnant to or inconsistent with those of the local government act, or any act amending that act, then the audit shall be conducted under the provisions of the last-mentioned act.

of that act relating to audit.

Local board may exercise powers of sect. 45 of 11 & 12 Vict. c. 63, also without their district, if necessary, for purposes of outfall or distribution of sewage, on making compensation.

IV. Local boards may exercise the powers given by the forty-fifth section of "The Public Health Act, 1848" (*a*), also without their district, for the purpose of outfall or distribution of sewage, upon making due compensation, to be settled in the manner provided in the one hundred and forty-fourth section of "The Public Health Act, 1848" (*b*): provided always, that nothing herein contained shall give or be construed to give power to any local board to construct or use any outfall drain or sewer for the purpose of conveying sewage or filthy water into any natural watercourse or stream until such sewage or filthy or refuse water be freed from all excrementitious or other foul or noxious matter, such as would affect or deteriorate the purity and quality of the water in such stream or watercourse.

Previous notices of the intended works before commencement.

V. Provided also, that no sewer or other work shall be constructed or extended, under the enactment lastly hereinbefore contained, unless three months at the least before the commencement of such work notice of the intended work, describing the nature thereof, and stating the intended termini thereof, and the names of the parishes, townships, and places, and the turnpike roads and streets or places laid out or intended for streets, and other lands, if any, through, across, or under which the work is to be made, and naming a place where a plan of the intended work is open for inspection at all reasonable hours, shall be given by advertisement in one or more of the newspapers usually circulated in the place where the work is to be made, and a written or printed copy of such notice shall be served in manner directed by "The Public Health Act, 1848," on the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands, and on the overseers of such parishes, townships, or places, and the trustees, surveyors of highways, or others, having the care of such roads or streets.

If objection be made by any party interested, the work not to be proceeded with without sanction of secretary of state.

VI. In case any of such owners, lessees, or occupiers, or such overseers, trustees, surveyors, or others as aforesaid, or any other owner, lessee, or occupier who would be affected by the proposed work, object to such work, and serve notice in writing of such objection on the local board at any time within the said three months, the proposed work shall not be made or commenced without the sanction of one of her Majesty's principal secretaries of state, after such inquiry and report as hereinafter mentioned (unless such objection be withdrawn).

An inspec-

VII. It shall be lawful for the secretary of state, upon application of any

(*a*) P. 264. (*b*) P. 295.

cal board, to appoint an inspector to make inquiry on the spot into the ropriety of any such work as aforesaid, and into the objections thereto, nd to hold one or more meeting or meetings for the purpose of hearing all ersons desirous of being heard before him on the subject of such inquiry, nd to report to such secretary of state upon the matters with respect to hich such inquiry was directed.

Inspector to be appointed to make inquiry on the spot, and report to the secretary of state.

VIII. Where already or hereafter any premises not being within the mits of the district of the local board have a drain communicating, irectly or indirectly, with a sewer within the district, and maintained by he local board, and any sewage from the premises flows into the sewer, here shall (except in cases where the owner is entitled to use such sewer ithout making any payment) be paid to the local board in respect thereof uch a yearly sum as is agreed on between them and the owner of the remises, or, failing agreement between them, as on the application of the cal board is determined by two justices; and the yearly sum so agreed on r determined shall be private improvement expenses, and shall be charged n the premises, and be paid and recoverable accordingly, as if the premises ere within the district: provided, that the yearly sum so charged shall ease to be payable if and when the connexion between the drain from the remises and the sewer is discontinued, so that a proportionate part thereof p to the time of the discontinuance shall alone be payable; but if after he discontinuance the connexion be re-established the yearly sum shall gain become payable, and so from time to time.

Yearly sum to be paid for premises without district drained into sewer within district.

IX. The sub-division numbered (4.) in the thirty-seventh section of the aid Local Government Act, 1858 (*a*), shall be and the same is hereby epealed; and in lieu thereof be it enacted as follows:

Provision for repair of highways in parts of parishes or townships not included in districts under local government act as herein stated.

(1.) Where part of a township, or place not comprised within any district in which the said "Local Government Act, 1858," is in force, and which part is hereinafter referred to as "the excluded part," was, before the said act came into force in such district, liable to contribute to the highway rates for such township or place, such excluded part shall for all purposes connected with the repairs of highways and the payment of highway rates, be considered to be and be treated as if forming part of such district (*b*):

(2.) It shall be lawful for a meeting of ratepayers of the excluded part (to be convened and conducted in the manner prescribed by the thirteenth section of the said Local Government Act, 1858, (*c*), with respect to districts, not being corporate boroughs or towns, under the jurisdiction of improvement commissioners,) to decide that such excluded part shall be formed into a separate highway district, and thereupon the excluded part shall for all purposes connected with highways, surveyors of highways, and highway rates, be considered and treated as a township maintaining its own highways:

(3.) The requisition for holding such meeting as last mentioned shall, in any excluded part where the said Local Government Act, 1858, has been in force before the passing of this act, be presented within six calendar months after the passing of this act, and in all other cases within six calendar months after the adoption of the said Local Government Act, 1858; but nothing in this section before contained shall apply to districts constituted under the Public Health Act, 1848, including a part only of any parish, township, or place which before the constitution of such district maintained its own highways.

X. All the powers, authorities, and discretion which in and by the act of the fifth and sixth years of the reign of king William the fourth,

Enabling local boards to act

(*a*) P. 468.

(*b*) But "such part shall for the purposes of the Highway Acts," be deemed to be a place separately maintaining its own highways, and capable of being included in a highway district, "without the consent of the local board."—27 & 28 Vict. c. 101, s. 5.

(*c*) P. 459.

24 & 25 Vict. c. 61.

chapter fifty, are vested in and given to the inhabitants in vestry assembled (*a*) of any parish, township, or place, shall, within the districts where the local government act is in force, be vested in and exercisable by the local boards, or commissioners exercising the powers of such local boards, under the provisions of this act and of "The Public Health Act, 1848," and of "The Local Government Act, 1858;" and all acts or consents already done or given or purporting to be so done or given by such local boards, under and by virtue of the said act of the fifth and sixth years of William the fourth, chapter fifty, acting or assuming to act in lieu of the inhabitants in vestry assembled of any parish, township, or place within the district of the local board, shall operate and be as valid and effectual as if the same had been done and given or executed by such inhabitants in vestry.

Instead of inhabitants in vestry of townships in their districts in all matters arising under the provisions of 5 & 6 W. 4, c. 50.

Service of notices and repayment of costs under sects. 69, 70, 71, 73 and 74 of 10 & 11 Vict. c. 34.

XI. In districts where the "Local Government Act, 1858," is in force, notices for alterations under the sixty-ninth, seventieth, and seventy-first sections, directions under the seventy-third section, and orders under the seventy-fourth section of the "Towns Improvement Clauses Act, 1847"(*b*), may, at the option of the local board, be served upon owners instead of occupiers, or upon owners as well as occupiers, and the cost of works done under any of these sections may, when notices have been so served upon owners, be recovered from owners instead of occupiers, and when such cost is recovered from occupiers they shall be entitled to make the same deduction from the rents payable for the premises where the work is done in respect of such cost as they are entitled to make in respect of private improvement rates by the "Public Health Act, 1848."

Special district rates leviable over same area as general district rates may be levied as part, and under the name, of general district rates.

XII. Where in any district, special district rates are levied over the same area as general district rates, the local board may make and levy such special district rates as part, and under the name, of general district rates: provided always, that the levying of such rates by the means aforesaid shall in no way prejudicially affect any mortgages now or hereafter to be made upon such special district rates.

Debts due on special district rates may, with the sanction of the secretary of state and of mortgagees, and of owners and ratepayers, be repaid, and money raised for such repayment on credit of general district rate.

XIII. Where any local board of health have incurred expenses in or about any works of a permanent nature, and have made and levied a special district rate upon or in respect of the premises situate in part of their district, and have borrowed and taken up at interest on the credit of the said special district rate any sums of money necessary for defraying such expenses, it shall be lawful for such local board, with the sanction of one of her Majesty's principal secretaries of state, and with the consent of all persons having advanced money on the security of the said special district rate, and with the consent of the owners and ratepayers of the district, to be expressed by resolution in the manner herein provided with respect to resolutions for the adoption of the said local government act, to pay off and discharge the sums so borrowed and taken up at interest on the credit of the said special district rate, or such part thereof as shall then remain due, and to re-borrow and take up at interest on the credit of the general district rates of the said local board any sums of money which shall have been so paid off and discharged, and for the purpose of securing the repayment of any sums so borrowed, together with interest thereon, the local board may mortgage the said general district rates to the persons by or on behalf of whom such sums are advanced, subject to the regulations prescribed by the fifty-seventh section of the Local Government Act, 1858 (*c*).

The sanction of the secretary of state substituted for the

XIV. In all cases in which prior to the passing of "The Local Government Act" all or any of the powers or provisions of "The Public Health Act, 1848," relative to the borrowing of money or the mortgaging of rates are repeated in any local act of parliament, or in which it is declared in

(*a*) See note, p. 73. (*b*) P. 225. (*c*) P. 475.

and by such local act that the same shall be read and construed as if all or any of such powers and provisions had been repeated therein, so as to confer thereunder upon any such local board of health or board of improvement commissioners powers corresponding with all or any of the borrowing or mortgaging powers contained in "The Public Health Act, 1848," and where the sanction, consent, direction, or approval of the general board of health is rendered requisite in or by any such local act to the due exercise of any of the powers vested thereby in any local board of health or board of improvement commissioners, such powers or any of them shall and may be henceforth exercised with and under the sanction, consent, direction, and approval of one of her Majesty's principal secretaries of state, in lieu of the sanction, consent, direction, and approval of the general board of health aforesaid, and not otherwise. 24 & 25 Vict. c. 61. sanction of the general board of health, which has ceased to exist.

XV. Seven clear days at least before the day fixed for the audit of accounts of any local board, the local board shall cause their rate books and other accounts to be made up and balanced, and the books and accounts so made up and balanced shall forthwith be deposited at the office of the said local board for the inspection of owners and ratepayers, and the notice of audit shall include a notice of such deposit of accounts; and any officer of a local board duly appointed in that behalf neglecting to make up such books and accounts, or altering such books and accounts, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable on conviction thereof to forfeit forty shillings; and it shall be lawful for any ratepayer or owner of property in the district to be present at the audit of the accounts of the local board, and to make any objection to such accounts before the auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor, as they have by law against disallowances. Making up accounts for audit.

XVI. Before giving the notice mentioned in the sixty-ninth section of "The Public Health Act, 1848" (*a*), the local board shall cause plans and sections of the works intended to be executed under that section and the thirty-eighth section of "The Local Government Act, 1858" (*b*), to be made, under the direction of their surveyor, on a scale of not less than one inch for eighty-eight feet for a horizontal plan, and on a scale of not less than one inch for ten feet for a vertical section, and, in the case of a sewer, showing the depth of such sewer below the surface of the ground; and such plans and sections shall be deposited in the office of the local board, and shall be open at all reasonable hours for the inspection of all persons interested therein during the period for which such notice is required to be given, and a reference to such plans and sections in such notice shall be held sufficient without requiring any copy of such plans and sections to be annexed to such notice. Before giving notice for paving, &c., of streets not being highways, plans and sections to be deposited with local board.

XVII. The form of notice in the schedule (A.) to this act annexed, or to the like effect, may be used for any of the purposes of the sixty-ninth section of "The Public Health Act, 1848" (*a*), and the thirty-eighth section of "The Local Government Act, 1858" (*b*), and of this act, for which such form is applicable, and such form shall accordingly, to all intents, be deemed sufficient for such purposes. Form of notice.

XVIII. In the construction of "The Lands Clauses Consolidation Act, 1845" (*c*), for the purposes of any provisional order under "The Local Government Act, 1858," conferring powers for the taking of land otherwise than by agreement, the term "special act" shall mean the act confirming such order, and "the date of the passing of the special act" shall mean the date of the passing of the act confirming such order. Interpretation of "special act" in construing 8 & 9 Vict. c. 18, as to provisional orders.

XIX. The powers granted by the seventy-eighth section of "The Local Government Act, 1858" (*d*), may be exercised in any case where any local board or board of improvement commissioners exercising the borrowing Extension of powers

(*a*) P. 272. (*b*) P. 468. (*c*) See note, p. 118. (*d*) P. 484.

24 & 25 Vict. c. 61.

powers of "The Public Health Act, 1848," or "The Local Government Act, 1858," or of any local act, has contributed to, purchased, or executed any permanent works, or proposes to contribute to, purchase, or execute such works, at a cost exceeding or estimated to exceed one year's assessable value of the premises assessable within the district in respect of which the money for such works may be borrowed.

given by sect. 78 of 21 & 22 Vict. c. 98, to cases in which local boards incur expenses for permanent works, &c.

Local boards may make agreements for terms of water supply in certain cases.

XX. In districts where no water companies are established by act of parliament all local boards may make agreements for the supply of water to persons on such terms as may be agreed upon between the local board and the persons receiving such supply, and shall have the same powers for recovering water rents accruing under such agreements as they have for the recovery of water rates by the law in force for the time being.

Local boards of health may repair fences surrounding burial grounds.

XXI. All local boards of health constituted burial boards may from time to time repair and uphold the fences surrounding any burial ground which shall have been discontinued as such within their jurisdiction, or take down such fences and substitute others in lieu thereof, and shall from time to time take the necessary steps for preventing the desecration of such burial grounds, and placing them in a proper sanitary condition; and where such burial boards are a local board of health, they may from time to time pass byelaws for the preservation and regulation of all burial grounds within their limits, and the expense of carrying this section into execution may be defrayed out of any rates authorised to be levied by any local board constituted a burial board.

Powers of local boards with respect to land purchased under 21 & 22 Vict. c. 98.

XXII. Local boards shall have the same powers with regard to any lands purchased by them under or for the purposes of "The Local Government Act, 1858," or any act incorporated therewith, which they now have with regard to lands purchased for the purpose of making or enlarging streets under the powers of the said act.

Provision for recovery of charges for private improvements.

XXIII. The expenses which have been incurred by any local board of health as and for private improvement expenses under the "Public Health Act, 1848," as also the expenses stated in the sixty-second section of "The Local Government Act, 1858" (*a*), to be a charge on the premises, with interest after the rate of five per centum per annum, may, by order of the local board of health, be declared payable by annual instalments, with interest after the rate aforesaid, during a period not exceeding thirty years, until the whole amount be paid; and any such instalments and interest, or any part thereof, may be recovered from the owner or occupier of such premises in the same manner as general district rates, and may be deducted from the rent of such premises in the same proportions as are allowed in the case of private improvement rates under the ninety-first section of "The Public Health Act, 1848" (*b*).

Demands below 20*l.* may be recovered in county courts.

XXIV. Proceedings for the recovery of demands below twenty pounds, which local boards are now empowered by law to recover in a summary manner, may, at the option of the local board, be taken in the county court as if such demands were debts within the cognizance of such courts.

Local board may make byelaws for licensing, &c., horses, boats, &c., for hire.

XXV. The local board may make byelaws for licensing and regulating horses, ponies, mules, or asses standing for hire in the district, and for prescribing and regulating the stands, and fixing the rates of hire, and ordering the conduct of the drivers or attendants thereof, and also for licensing, regulating, and fixing the rates of hire of pleasure boats or vessels, and the persons in charge of the same.

Sect. 69 of 5 & 6 W. 4, c. 50, to apply to encroachments on highways managed by local authority.

XXVI. Where a board of improvement commissioners, or other local authority, exercising any of the powers of "The Local Government Act, 1858," maintains and repairs the highways within the area of its jurisdiction, the sixty-ninth section of the act of the fifth and sixth William the

(*a*) P. 478. (*b*) P. 380.

fourth, chapter fifty, shall be held to apply to all encroachments (*a*) on such highways. 24 & 25 Vict. c. 61.

Repayment of costs by provisional orders.

XXVII. The provision for the repayment of costs, charges, and expenses incurred by the secretary of state in relation to any provisional order under the seventy-fifth section of "The Local Government Act, 1858" (*b*), shall extend to all provisional orders under the said act.

No house to be brought forward, without consent of local board.

XXVIII. It shall not be lawful at any time or times hereafter, within the district of any local board, to bring forward any house or building forming part of any street, or any part thereof, beyond the front wall of the house or building on either side thereof, nor to build any addition thereto beyond the front of such house or building on either side of the same as aforesaid, without the previous consent of such local board.

Application of general acts to local boards of health.

XXIX. And whereas doubts exist whether local boards of health, constituted under or by virtue of local acts, are affected by the provisions of "The Local Goverment Act, 1858" (*c*), or by the provisions of "The Nuisances Removal Act for England, 1855" (*d*), and "The Diseases Prevention Act, 1855" (*e*), and it is desirable to remove such doubts: be it therefore enacted, that all the provisions of "The Local Government Act, 1858" (*c*), as amended by this act, and of "The Nuisances Act for England, 1855" (*d*), and "The Diseases Prevention Act, 1855" (*e*), as amended by the "Act to amend the Acts for the Removal of Nuisances and Prevention of Diseases" (*f*), which acts are hereinafter designated the general acts, shall extend and apply to all local boards of health constituted under or by virtue of local acts, with and subject to the two following qualifications; that is to say,)

(1.) Provisions of the general acts opposed to or restrictive of the provisions (whether adopted or original) of any such local act shall be of no force in the district for which the local act was passed:

(2.) Wherever the general acts and a local act contain provisions for effecting the same or a similar object, but in different modes, the local board of health may proceed under the general acts or the local act:

And every future act for amending or repealing any of the general acts aforesaid shall, subject to the aforesaid qualifications, also extend and apply to every such local board of health.

Incorporation and construction of acts.

XXX. This act shall be deemed to be incorporated with the Local Government Act, 1858, and shall be read as if this act and the said local government act were one act.

Short title.

XXXI. In citing this act it shall be sufficient to use the words and figures "Local Government Act (1858) Amendment Act, 1861."

(*a*) Sect. 69 of 5 & 6 Wm. 4, c. 50, enacts, "That if any person shall encroach by making or causing to be made any building, hedge, ditch, or other fence on any carriageway or cartway within the distance of fifteen feet from the centre thereof, every person so offending shall forfeit, on conviction for every such offence, any sum not exceeding forty shillings; and the surveyor who hath the care of any such carriageway or cartway shall and he is hereby required to cause such building, hedge, ditch, or fence to be taken down, or filled up, at the expense of the person to whom the same shall belong; and it shall and may be lawful for the justices at a special sessions for the highways, upon proof to them made upon oath, to levy as well the exponses of taking down such building, hedge, or fence, or filling up such ditch as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, in such manner as distresses and sales for forfeitures are authorised and directed to be levied by virtue of this act;" and see 27 & 28 Vict. c. 101, s. 51, as to such encroachments.

(*b*) P. 482.

(*c*) 21 & 22 Vict. c. 98, p. 457.

(*d*) 18 & 19 Vict. c. 121, p. 419.

(*e*) 18 & 19 Vict. c. 116, p. 341.

(*f*) 23 & 24 Vict. c. 77, p. 498.

& 25 Vict. c. 61.

## SCHEDULE.

Local board of health for the of in the county of

To the owner of certain premises fronting, adjoining, or abutting upon a certain street called , within the said [borough *or* district, *as the case may be*].

Whereas the said street is not sewered, levelled, paved, flagged, and channelled to the satisfaction of the above-named local board of health; and whereas your said premises front, adjoin, or abut on certain parts of the said street which require to be sewered, levelled, paved, flagged, and channelled: now, therefore, the said local board of health hereby give you notice (in pursuance of the statute in that case made and provided) to sewer, level, pave, flag, and channel the same within the space of [*state the time*] from the date hereof, in manner following; (that is to say,) the sewers to be laid or made [*here describe the mode to be adopted and material to be used*], of the sizes and forms, and at the rate or rates of inclination shown on the plans and sections of the works as prepared by the surveyor of the local board.

Each gully for surface draining, and its connection with the sewer, to be placed as shown on the said plans, and to be constructed of the forms, materials, and dimensions as shown on the said plans.

A foundation for the carriageway and footway in the said street to be formed in the following manner [*here describe the mode to be adopted and the material to be used*], and the said carriageway and footway to be paved [*here describe the mode to be adopted and the material to be used*].

The channel stones to be [*here describe the mode to be adopted and the material to be used*]. The curb or side stones to be [*here describe the mode to be adopted and the material to be used*].

The whole of the above-mentioned works to be executed by you in accordance with the plans and sections hereinbefore referred to, and now lying for inspection by you at the office of the local board, situate in street, in aforesaid, and the dimensions, widths, and levels shown thereon, and to be done in a good, workmanlike, and substantial manner, to the satisfaction of the said local board of health or their surveyor.

Dated this day of one thousand eight hundred and .

Clerk to the said local board of health.

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## 24 & 25 Vict. c. 130.

4 & 25 Vict. c. 130.

*An Act for amending an Act passed in the last Session of Parliament to amend the Law concerning the making, keeping, and carriage of Gunpowder and Compositions of an explosive Nature, and concerning the manufacture, sale, and use of Fireworks* (*a*). [6th August, 1861.]

3 & 24 Vict. c. 139.

Whereas by an act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter one hundred and thirty-nine (*b*), intituled "An Act to amend the Law concerning the making, keeping, and carriage of Gunpowder and Compositions of an explosive Nature, and concerning the manufacture, sale, and use of Fireworks," there are vested in the justices of the peace in general quarter sessions assembled certain powers of licensing places for making and keep-

(*a*) See "Accidents from Gunpowder," p. 145.
(*b*) See 23 & 24 Vict. c. 139, p. 506.

ing gunpowder, percussion caps, ammunition, and other explosive substances, and for granting licences to persons to sell fireworks: and whereas it is expedient that all powers of licensing by the said act given to the justices in quarter sessions should be transferred to the justices in petty sessions assembled: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows: 24 & 25 Vict. c. 130.

I. All powers of granting licences by the said act given to justices of the peace at their general quarter sessions shall be transferred to and vested in the justices in petty sessions assembled (*a*), and the justices shall hold special petty sessions of the peace in their several divisions for granting such licences at such times as they think expedient; and all powers thereby transferred shall be exercised by the justices in petty sessions assembled within their respective divisions in the same manner in which the same are by the said act required to be exercised by the justices at their general quarter sessions, or as near thereto as circumstances will admit. Transfer of licensing powers.

II. The justices in each petty sessional division may, with the sanction of one of her Majesty's principal secretaries of state (*b*), regulate the mode in which applications for licences under this act are to be made, and make a scale of fees to be charged in respect of such licences. Table of fees.

III. This act, so far as is consistent with the tenor thereof, shall be construed as one with the said act of the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter one hundred and thirty-nine. Construction of act.

IV. And whereas it is necessary for the manufacturers of safety fuzes to have and keep for the purpose of such manufacture large quantities of gunpowder: be it enacted, that such manufacturers shall be within and subject to all the provisions of the eighteenth section (*c*) of the said recited act, in like manner as the manufacturers of cartridges, fireworks, and rockets; and further, that it shall be lawful for such manufacturers of safety fuzes to keep exclusively for the use of such manufacture the respective quantities of gunpowder mentioned in the nineteenth section of the said act, in like manner as the same may be kept for the use of any mine, quarry, or colliery, but subject to all the restrictions and conditions mentioned and provided in the said section. Section 18 of recited act to apply to manufacturers of safety fuzes.

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## 25 & 26 Vict. c. 66.

*An Act for the Safe-keeping of Petroleum* (*d*). [29th July, 1862.] 25 & 26 Vict. c. 66.

Whereas it is expedient to provide for the safe keeping of petroleum and certain products thereof that are dangerous to life and property, from their properties of giving off inflammable vapours at low temperatures: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

I. "Petroleum," for the purposes of this act, shall include any product thereof that gives off an inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer: Definitions: "petroleum:"

(*a*) And in Dublin police district by any two or more divisional magistrates of police, 25 & 26 Vict. c. 98, s. 2, p. 532.

(*b*) And in Dublin the divisional magistrates with the sanction of the Lord Lieutenant, *ibid.*

(*c*) P. 512.

(*d*) See "Storage of Petroleum," p. 151.

25 & 26 Vict. c. 66

"borough:" "Borough" shall in England mean any place for the time being subject to the provisions of the act of the session holden in the fifth and sixth years of king William the fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales;" and in Scotland any royal burgh and any of the burghs or towns returning or contributing to return members to parliament; and in Ireland any place for the time being subject to the provisions of the act of the session holden in the third and fourth years of her Majesty, chapter one hundred and eight, intituled "An Act for the Regulation of Municipal Corporations in Ireland:"

"harbour:" "Harbour" shall include any port, dock, navigable river, pier, or other works in or at which vessels ship or discharge goods or passengers:

"harbour authority." "Harbour authority" shall include all persons or bodies of persons, corporate or unincorporate, being proprietors of or entrusted with the duty of improving, maintaining, or managing any harbour.

Regulations to be observed by a ship carrying petroleum.

II. Every vessel carrying a cargo consisting wholly or in part of petroleum on entering any harbour within the United Kingdom shall conform to such regulations in respect to the place at which she is to be moored as may from time to time be issued by the harbour authority having jurisdiction over such harbour. If any vessel is moored in any place in contravention of such regulations, the owner or master of such vessel shall incur a penalty not exceeding twenty pounds for each day during which the vessel remains moored, and it shall be lawful for the harbour master, or any other person acting under the orders of the harbour authority, to cause such vessel to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said regulations, and all expenses incurred in such removal may be recovered in the same manner in which penalties are hereby made recoverable.

Regulations to be observed in storing petroleum.

III. From and after the first day of October one thousand eight hundred and sixty-two not more than forty gallons of petroleum shall be kept within fifty yards of a dwelling house or of a building in which goods are stored, except in pursuance of a licence given by such local authority as is hereinafter mentioned.

Any petroleum kept in contravention of this section shall be forfeited, and, in addition thereto, the occupier of the place in which such petroleum is kept shall incur a penalty not exceeding twenty pounds a day for each day during which petroleum is kept in contravention of this act.

Definition of local authority.

IV. The following bodies shall respectively be the local authority to grant licences under this act in the districts hereinafter mentioned; (that is to say,)

1. In the city of London, except as hereinafter mentioned, the court of lord mayor and aldermen of the said city:
2. In the metropolis, as defined by the act of the session of the eighteenth and nineteenth years of the reign of her present Majesty, chapter one hundred and twenty (a), except the city of London, and except as hereinafter mentioned, the metropolitan board of works:
3. In any borough in England or Ireland, except as hereinafter mentioned, the mayor, aldermen, and burgesses, by the council:
4. In any place in England or Ireland, except as hereinafter mentioned, within the jurisdiction of any trustees or improvement commissioners, appointed under the provisions of any local or general act of parliament, the trustees or commissioners:
5. In any burgh or place in Scotland, except as hereinafter mentioned, within the jurisdiction of any town council, and not subject to the jurisdiction of police commissioners or trustees, the town council: but in any burgh or place in Scotland, except as hereinafter men-

(a) Sec. 250, p. 406.

tioned, within the jurisdiction of police commissioners or trustees exercising the functions of police commissioners under any general or local act, the police commissioners or trustees:

6. In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority hereinbefore mentioned, the harbour authority, to the exclusion of any other local authority:
7. In any place in England or Ireland in which there is no local authority as hereinbefore defined, the justices in petty sessions assembled, and in Scotland any two justices of the peace for the county.

Mode of granting licences.

V. Licences in pursuance of this act shall be valid if signed by two or more of the persons constituting the local authority, or executed in any other way in which other licences, if any, granted by such authority are executed; they may be granted for a limited time, and there may be annexed thereto any conditions as to renewal or otherwise which the local authority thinks necessary for diminishing the risk of damage from explosion or fire; and any licensee violating any of the conditions of his licence shall be deemed to be an unlicensed person.

In case of refusal of licence, the applicant may memorialise secretary of state.

VI. If, on any application for a licence under this act, the local authority refuses the licence, or grants the same only on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant, certify in writing under the hand or hands of one or more of the persons constituting the local authority the grounds on which it refused the licence or annexed conditions to the grant thereof, and shall deliver the certificate to the applicant, who may thereupon, within ten days from the time of the delivery thereof, transmit the same to one of her Majesty's principal secretaries of state, if the application is for a licence in England or Scotland, and to the lord lieutenant or other chief governor if the application is for a licence in Ireland, together with a memorial, praying that, notwithstanding such refusal, the licence may be granted, or that such conditions may not be imposed, or may be altered or modified in such manner and to such extent as may be set forth in such memorial; and it shall be lawful for the secretary of state, lord lieutenant, or other chief governor, if he think fit, on consideration of such memorial and certificate, and if he think it necessary or desirable, after due inquiry from and a report by such person as he may appoint for that purpose, to grant the licence prayed for, either absolutely, or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the local authority; and the licence so granted, or altered and modified, as the case may be, when certified under the hand of the said secretary of state, lord lieutenant, or other chief governor, shall be to all intents as valid as if granted by the local authority.

Forfeitures and penalties in England and Ireland.

VII. Any forfeiture or penalty for an offence against this act may be enforced in England and Ireland upon summary conviction before any two justices; and one moiety of the forfeiture and penalty shall belong to her Majesty, and the other moiety to the informer, unless the informer is a servant of the person informed against, in which case the moiety of the forfeiture or penalty which would otherwise belong to the informer shall be applied in such manner and to such other purposes as the justices in their or his discretion may think fit.

Recovery of forfeitures and penalties in Scotland.

VIII. Any forfeiture or penalty for an offence against this act may be enforced in Scotland upon summary conviction, at the instance of the procurator-fiscal, before any sheriff, or before any two justices of the county, or before the magistrates or any police magistrate of the burgh in which the offence was committed, who may sentence the offender to imprisonment, until such forfeiture or penalty and the expenses of conviction are paid, for a period not exceeding three months; and one moiety of such forfeiture or penalty shall belong to her Majesty, and the other moiety shall be applied

25 & 26 Vict. c. 66.

in such manner and to such purposes as such sheriff, justices, magistrate, or magistrate in their or his discretion may think fit.

Search for petroleum.

IX. Petroleum may be searched for in the same manner, under the same warrants, and subject to the same conditions in, under, and subject to which gunpowder may be searched for, in pursuance of the act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter one hundred and thirty-nine (*a*); and all the provisions of the said act relating to searching for gunpowder shall be incorporated with this act, and be construed as if the word "gunpowder" in such provisions included petroleum as defined by this act, and as if the act therein referred to were this act.

Reservation of previous powers with respect to inflammable substances.

X. All powers given by this act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by act of parliament, law, or custom, and the local authority may exercise such other powers in the same manner as if this act had not passed; and nothing in this act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance.

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## 25 & 26 Vict. c. 91.

25 & 26 Vict. c. 91.

*An Act to incorporate the General Council of Medical Education and Registration of the United Kingdom, and for other Purposes* (*b*). [7th August, 1862.]

21 & 22 Vict. c. 90 (*c*).

Whereas by the medical act passed in the session holden in the twenty-first and twenty-second years of the reign of her present Majesty, chapter ninety, a council is established, under the style of "The General Council of Medical Education and Registration of the United Kingdom," and certain duties and obligations are imposed on such council, and in particular, it is provided, that the general council shall cause to be published under their direction a book, containing a list of medicines and compounds, and the manner of preparing them, together with the true weights and measures by which they are to be prepared and mixed, and containing such other matter and things relating thereto as the general council shall think fit, to be called "British Pharmacopœia," and power is given to the said council to alter, amend, and republish such pharmacopœia as often as they shall deem it necessary: and whereas different pharmacopœias have hitherto been in use in England, Scotland, and Ireland, published in England under the direction of the Royal College of Physicians of London, and sanctioned by an order of her Majesty in council, published in Scotland under the direction of the Royal College of Physicians of Edinburgh, but without any legal sanction, and published in Ireland under the direction of the King and Queen's College of Physicians in Ireland, and sanctioned by act of parliament: and whereas the pharmacopœia to be published by the said council is intended to supersede the above-mentioned pharmacopœias: and whereas it is expedient to incorporate the said council, and to make such provisions as are hereinafter contained with respect to the said British Pharmacopœia: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

(*a*) See 23 & 24 Vict. c. 139, p. 506. See also "Accidents from Gunpowder," p. 145.

(*b*) See "Medical Practitioners," p. 174. (*c*) See this act, p. 445.

25 & 26 Vict. c. 91.

I. "The General Council of Medical Education and Registration of the United Kingdom" shall be deemed to be and to have been, from the date of its first establishment, a body corporate by the name aforesaid, having a perpetual succession and a common seal, with a capacity to hold lands for the purposes of the said medical act.

Incorporation of council.

II. The exclusive right of publishing, printing, and selling the said Pharmacopœia shall vest in the said general council, subject to this proviso, that it shall be lawful for the commissioners of the treasury from time to time to fix the price at which copies of the said work are to be sold to the public.

Right of printing pharmacopœia vested in council.

III. The British Pharmacopœia, when published, shall for all purposes be deemed to be substituted throughout Great Britain and Ireland for the several above-mentioned pharmacopœias, and any act of parliament, order in council, or custom relating to any of such last-mentioned pharmacopœias shall be deemed, after the publication of the British Pharmacopœia, to refer to such pharmacopœia.

Notice to be given in gazettes when British pharmacopœia is published.

Notice in the London, Edinburgh, and Dublin Gazettes to the effect that the British Pharmacopœia has been published shall be deemed sufficient evidence of its publication for the purposes of this act, and a copy of the said pharmacopœia printed by such person as may be named in the said notice, or in any other notice published in the said Gazettes, as authorised by the general council to print the said pharmacopœia, shall be admitted in evidence as being the pharmacopœia directed to be published by the above-mentioned act.

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## 25 & 26 Vict. c. 98.

25 & 26 Vict. c. 98.

*An Act for the Amendment of an Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirty-nine, intituled An Act to amend the Law concerning the making, keeping, and carriage of Gunpowder and Compositions of an explosive nature, and concerning the manufacture, sale, and use of Fireworks, and of an Act amending the last-mentioned Act* (a). [7th August, 1862.]

WHEREAS by an act of the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter one hundred and thirty-nine (b), intituled "An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and compositions of an explosive nature, and concerning the manufacture, sale, and use of Fireworks," and hereinafter referred to as the principal act, divers regulations are made with respect to the manufacture and keeping of gunpowder, and with respect to the manufacture of loaded percussion caps, and the manufacture and keeping of ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature: and whereas by the twenty-fifth section of the principal act provisions are made with respect to the issue of warrants to search and with respect to searching for gunpowder, and by the twenty-seventh section of the same act special powers are given to the conservators of the river Thames of appointing searchers for gunpowder within their jurisdiction: and whereas it is expedient to extend the said sections to loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive

23 & 24 Vict. c. 139.

(a) See "Accidents from Gunpowder," p. 145.
(b) See 23 & 24 Vict. c. 139, p. 506.

25 & 26 Vict. c. 98.

nature: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Extension of sects. 25 & 27 of princi-pal act to other explo-sive compo-sitions.

I. The twenty-fifth and twenty-seventh sections of the principal act shall be construed and applied as if the word gunpowder therein mentioned included loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature.

Divisional magistrates of police to exercise licensing powers within the Dublin police dis-trict.

II. Whereas by an act for amending the principal act passed in the session holden in the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter one hundred and thirty (*a*), it is provided that all powers of granting licences by the principal act given to justices of the peace at their general quarter sessions shall be transferred to and vested in the justices in petty sessions assembled: and whereas within the police district of Dublin metropolis the powers usually exercised by justices of the peace in petty sessions are exercised by any two or more divisional magistrates of police; and it is expedient to amend the said act of the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and thirty, in manner hereinafter mentioned: be it enacted, that the powers of licensing vested in manner aforesaid in the justices in petty sessions assembled may, within the police district of Dublin metropolis, be exercised by any two or more divisional magistrates of police; and that it shall be lawful for the said divisional magistrates of police, or any two or more of them, with the sanction of the lord lieutenant of Ireland, to regulate the mode in which applications for licences under the said act are to be made, and to make a scale of fees to be charged in respect of such licences.

Short title of principal act and this act.

III. The principal act may be cited for all purposes as "The Gunpowder Act, 1860," and this act shall be construed as one with the principal act, and may be cited for all purposes as "The Gunpowder Act Amendment Act, 1862."

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## 25 & 26 Vict. c. 102.

25 & 26 Vict. c. 102.

*An Act to amend the Metropolis Local Management Acts.*

[7th August, 1862.]

Whereas an act was passed in the session of parliament holden in the eighteenth and nineteenth years of the reign of her present Majesty Queen Victoria, intituled "An Act for the better Local Management of the Metropolis:" and whereas the said act was amended by a certain other act passed in the session holden in the nineteenth and twentieth years of the reign of her present Majesty, chapter one hundred and twelve, and was further amended, and certain further and other provisions were made, by another act passed in the session holden in the twenty-first and twenty-second years of the reign of her present Majesty, chapter one hundred and four: and whereas it is expedient further to amend the said first-mentioned act: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

18 & 19 Vict. c. 120 (*b*).

19 & 20 Vict. c. 112 (*c*).

21 & 22 Vict. c. 104 (*d*).

Debt in respect of Counters Creek.

I. Whereas the metropolitan commissioners of sewers, in exercise of the powers conferred upon them by the act of the eleventh and twelfth years of the reign of her present Majesty, chapter one hundred and twelve, did

(*a*) See 24 & 25 Vict. c. 130, p. 526.
(*b*) See 18 & 19 Vict. c. 120, p. 343.
(*c*) See 19 & 20 Vic c. 112, p. 441.
(*d*) See 21 & 22 Vict. c. 104, p. 487.

cause to be prepared and did approve of certain plans for the main drainage and sewage interception of the metropolis, and certain sewers and works included in and forming a portion of the plans so prepared and approved were constructed and completed by the said commissioners or by the metropolitan board of works; that is to say, the sewers and works known as the Counters Creek diversion works: and whereas the cost of the said works, amounting to the sum of forty-three thousand seven hundred and twenty-one pounds fifteen shillings, was defrayed by monies borrowed on certain securities, which securities and monies are included amongst and form part of the securities and monies enumerated in schedule A. to this act, and the debt incurred in respect thereof was charged by the said commissioners upon the following sewerage districts; viz., the Counters Creek, Ranelagh, and Fulham and Hammersmith districts, in certain shares and proportions, and has been apportioned by the metropolitan board of works, pursuant to the one hundred and eighty-first section of the firstly-recited act, among the several parishes or parts of parishes which heretofore constituted the said districts, that is to say, Paddington, Chelsea, St. Mary Abbott's Kensington, St. Margaret and St. John the Evangelist Westminster, Hammersmith, Fulham, Willesden, St. Marylebone, St. George Hanover Square, St. John Hampstead, Acton, Ealing and Chiswick: and whereas it is just and expedient that the cost of and incidental to the construction and execution of the said sewers and works, amounting to the sum aforesaid, should be deemed to be part of the expenses of and incidental to the works which the said metropolitan board are by the said acts of the eighteenth and nineteenth Victoria, chapter one hundred and twenty, and the twenty-first and twenty-second Victoria, chapter one hundred and four, empowered and directed to construct and execute for the improvement of the main drainage of the metropolis, and for preventing, as far as may be practicable, the sewage of the metropolis from passing into the river Thames within the metropolis: and whereas certain other works were executed by the said commissioners, known as the Ravensbourne works, and the costs of such works, amounting to the sum of twenty-six thousand five hundred and forty-five pounds sixteen shillings and fivepence, was defrayed out of monies borrowed on certain securities, which securities and monies are included amongst and form part of the securities and monies enumerated in the said schedule A. to this act, and the debt incurred in respect thereof was charged by the said commissioners upon the following sewerage districts, viz., the Ravensbourne and Greenwich districts, in certain shares and proportions, and has been apportioned by the said metropolitan board of works, pursuant to the said firstly recited act, among the several parishes and places or parts of parishes and places which heretofore constituted the said districts; that is to say, St. Paul Deptford, Greenwich, Kidbrooke, Lewisham, Camberwell, Charlton, Eltham, and Lee: and whereas the last-mentioned works partly enure to the benefit of the metropolis at large, and it is just and expedient that a portion of the costs and charges thereof, amounting to the sum of ten thousand pounds, should be deemed to be part of the said expenses of and incidental to the works which the said metropolitan board are empowered and directed to construct and execute under the said acts of the eighteenth and nineteenth Victoria, chapter one hundred and twenty, and the twenty-first and twenty-second Victoria, chapter one hundred and four: be it therefore enacted, that the debts incurred in respect of the costs and charges of the said Counters Creek diversion works, amounting to the said sum of forty-three thousand seven hundred and twenty-one pounds fifteen shillings, and in respect of the said portion of the costs and charges of the said Ravensbourne works, amounting to the said sum of ten thousand pounds, making together the sum of fifty-three thousand seven hundred and twenty-one pounds fifteen shillings, shall cease to be the special debts and obligations of the said parishes and places and parts of parishes and

works and part of debt in respect of Ravensbourne works re-distributed and made payable out of monies borrowed on the security of the main drainage rate.

25 & 26 Vict. c. 102.

places, and the same shall be deemed to have become, on the first day of January one thousand eight hundred and fifty-six, transferred to and charged upon and shall stand charged upon the metropolis at large, as defined by the said firstly recited act, including the said parishes and places and parts of parishes and places comprised within the limits thereof; and all sums becoming payable under or required for the payment of any security given for the monies so borrowed to the extent of the said sums of forty-three thousand seven hundred and twenty-one pounds fifteen shillings and ten thousand pounds, or of any interest due or to accrue thereon, shall be paid by the said metropolitan board of works out of any monies which they may have already borrowed and raised or may hereafter borrow and raise on the security of the assessments or rates made or to be made by them for the metropolis main drainage rate under the provisions of the said act of the twenty-first and twenty-second Victoria, chapter one hundred and four; and the said board shall take an account between the parishes, places, and parts aforesaid originally charged with the said debts and obligations and the metropolis at large to which the same are hereby transferred, and shall reimburse or give credit to the said parishes, places, and parts for any sums which may have been overpaid by them or any of them on account of principal or interest in respect of the said sums of forty-three thousand seven hundred and twenty-one pounds fifteen shillings and ten thousand pounds respectively (if any), since the first day of January one thousand eight hundred and fifty-six, beyond the sums which would have been due from them or any of them if the transfer and apportionment hereby directed had been in force on the first day of January one thousand eight hundred and fifty-six, and the said board shall place any such excess to the credit of such parishes, places, or parts, in reduction of their next or some future ordinary assessment upon such parishes or parts, for defraying their expenses in the execution of the firstly recited act.

Application of part of monies raised on security of metropolis main drainage rate to repayment of sums expended on Victoria Street sewer since 1st Jan., 1856.

II. And whereas at certain times between the first day of January one thousand eight hundred and fifty-six and the passing of this act certain works were executed by the said metropolitan board of works for the reparation and reconstruction of portions of one of the main sewers of the metropolis known as the Victoria Street sewer, and the expenses of and incidental to the execution of the said works were charged by the said board on certain parishes in the metropolis, which were heretofore included in the separate sewerage districts, known as the eastern division of the Westminster sewers, the western division of the Westminster sewers, and the Regent Street and Regent's Park district, in certain shares and proportions, and were paid by the said board partly out of their general funds and partly by monies raised in some of the said parishes: and whereas that portion of the said sewer in respect of which the said works of reconstruction and reparation were executed will be incorporated with and form part of the main drainage works now in course of execution by the said board, under the provisions of the said acts of the eighteenth and nineteenth Victoria, chapter one hundred and twenty, and the twenty-first and twenty-second Victoria, chapter one hundred and four, and will ensure to the benefit of the metropolis at large, and the costs and charges of executing the same ought to be borne by the metropolis at large instead of by individual parishes: be it therefore enacted, that the expenses of and incidental to the execution of the said works of reparation and reconstruction so executed by the said board between the first day of January one thousand eight hundred and fifty-six and the passing of this act shall be deemed to be part of the expenses of and incidental to the main drainage works which the said board are empowered to construct and execute under the said acts of the eighteenth and nineteenth Victoria, chapter one hundred and twenty, and the twenty-first and twenty-second Victoria, chapter one hundred and four; and the said board shall, out of

the monies borrowed and raised or to be borrowed and raised by them for the metropolis main drainage rate under the provisions of the said act of the twenty-first and twenty-second Victoria, chapter one hundred and four, replace the said monies taken from the general funds of the said board for the payment aforesaid, and reimburse the monies which the said parishes or any of them may have paid towards the said works of reparation and reconstruction between the first day of January one thousand eight hundred and fifty-six and the passing of this act; and the said monies so to be applied in reimbursing the said parishes shall be retained by the said board, and shall be carried to the credit of the said parishes, in reduction, so far as the same will extend, of the next or some future assessment upon such parishes by the said board for their expenses in the execution of the firstly recited act. 25 & 26 Vict. c. 102.

III. And whereas the said metropolitan commissioners of sewers did, in exercise of the powers vested in them by the said act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, borrow and take up at interest from a certain society known as the Clergy Mutual Assurance Society, on the security of certain rates authorised to be levied under the last-mentioned act, the sum of one hundred and forty thousand pounds, and there was previous to the first of November one thousand eight hundred and sixty due and owing to the said society from the metropolitan board of works, as the successors of the said metropolitan commissioners of sewers, in respect of the said loan, the sum of one hundred and five thousand pounds, and it is expedient accurately to ascertain and determine the several parishes, parts, and places on which the debt in respect of the said sum of one hundred and five thousand pounds shall stand charged, and on which monies or rates are to be raised or levied for the payment of the principal and interest in respect of the same, and to ascertain and determine the proportions charged upon each: be it therefore enacted, that the said debt of one hundred and five thousand pounds shall be and stand charged upon and apportioned to the several parishes, parts, and places enumerated in schedule B. to this act, in the several proportions specified in such schedule, and the said several parishes, parts, and places shall be deemed to be and shall be liable to the payment of the sums set against their respective names therein, and to the payment of interest thereon, and the monies from time to time becoming payable under the said security, or required for or towards payment of the said debt or any part thereof, and the interest thereon, shall be raised by such board upon such parishes, parts, and places respectively in manner provided in respect to the expenses of such board in the execution of the firstly-recited act: provided always, that credit shall be given for any sums paid off in respect of the said loan previous to the passing of this act according to the several proportions specified in the said schedule. Parishes, parts, and places on which debt on loan from the Clergy Mutual Assurance Society stands charged.

IV. Provided, that nothing in this act contained shall prejudice, abridge, diminish, or affect the priority secured by the firstly recited act to the persons respectively entitled to the mortgages, annuities, securities, and debts referred to in the one hundred and eighty-first section of that act, and the first, second, and third sections of this act, or the right of any or either of such persons to require and enforce payment of any principal or interest thereon, or in respect thereof, in, from, or out of all or any of the districts, assessments, rates, or monies liable to such payment under or by virtue of their respective mortgages or securities, but all the securities, rights, and remedies of such persons respectively shall remain as good, ample, and effectual, to all intents and purposes, as if this act had not been passed: provided also, that nothing herein contained shall prejudice or affect the power vested in the said metropolitan board under the firstly recited act to borrow monies for paying off former securities. Saving rights and remedies of persons holding securities.

V. From and after the passing of this act the one hundred and seventieth Sums to be

25 & 26 Vict. c. 102.

section of the firstly recited act (*a*) is hereby repealed; and in lieu thereof be it enacted, that the metropolitan board of works shall from time to time ascertain and assess upon the several parts of the metropolis the several sums which, having regard to the annual rateable value of the property in such parts respectively, ought to be charged thereon for defraying the expenses of the said board in the execution of the firstly and secondly recited acts and of this act, and any such sums may be assessed wholly or in part in respect of expenses incurred or to be incurred, and also in respect of any unpaid balance of any former precept of the said board: provided always, that such repeal shall not in any respect affect any act, matter, or thing whatsoever done or commenced to be done under or by virtue of the said firstly and secondly recited acts, or any proceeding taken or to be taken under the thirdly recited act, or to affect or prejudice, except as herein specially provided, in any way the rights or liabilities of any district or part under the one hundred and eighty-first section of the firstly recited act, but the same shall be judged of in all respects as if this act had not been passed.

assessed by metropolitan board.

Basis of assessment.

VI. For the purpose of making any assessment under the preceding section the board shall estimate the annual value of property according to the estimate or basis on which any county rate in force in any part of the metropolis is made, or, where there is no such county rate, according to a like estimate or basis.

Mode of assessment by the metropolitan board of works.

VII. All such assessments to be made by the metropolitan board of works shall be assessed and charged by the said board upon the same basis and in the same manner as the county rate is assessed and charged by the justices under the statutes in force for assessing and charging county rates in England and Wales: provided always, that all precepts shall be issued and rates levied by the said board in manner directed by the several recited acts relating to the better local management of the metropolis and by this act, so far as relates to making precepts and levying rates.

Assessments and precepts of metropolitan board may be according to forms in schedule C.

VIII. The assessment of any monies to be assessed by the metropolitan board of works for the expenses of executing the firstly and secondly recited acts and this act, and the precepts for obtaining payment of monies required by the board for that purpose, may be according to the forms contained in schedule C. to this act, or to the like effect.

Any vestry or district board may pay precept of metropolitan board out of any money in their possession, and reimburse themselves out of sewer rate.

IX. The vestry of any parish mentioned in schedule A. to the firstly recited act, or the board of works for any district to whom any precept of the metropolitan board shall be directed, may, if they shall see fit, pay to the person or body authorised by the said metropolitan board to receive the same the sum required by such precept, within such time as may be therein mentioned, out of any monies in their possession at the time of their receiving such precept, or which may come into their hands at any time within two calendar months next after the service thereof; and all payments so made by any vestry or district board shall be charged by them against and reimbursed to them out of the monies which the said vestry or district board shall and which they are hereby required to raise and collect by virtue of such precept.

Vestries may include in the sewers rate precepts of metropolitan board.

X. Where, by any local act of parliament, the poor rate in any parish in schedules A. or B. (*b*) to the firstly recited act is made by the vestry of such parish at a fixed period or periods in every year, it shall be lawful for such vestry, at their discretion, to include in the sewers rate for their parish such sum or sums of money as they may consider necessary to meet any precepts received or to be received from the metropolitan board of works during the period for which such poor rate extends, to defray the expenses of the said board in the execution of the said first-recited act; and, at the time of making such poor rate, also to make a separate rate for the metro-

(*a*) See 18 & 19 Vict. c. 120, p. 386. (*b*) pp. 407-8.

polis main drainage, to meet the precept received or to be received from the metropolitan board of works for the sum assessed for such rate during the year, such rates to be levied in the same manner, for the same period, upon the same persons, and to be subject to the like provisions as the sewers rate by the first-recited act, and to be contained in the same book or books as the poor rate of the said parish, but distinguishing the title of each of the said separate rates or assessments, and to be collected quarterly or otherwise by such person or persons as shall be appointed by the said vestry to receive and collect the same: provided, that nothing herein contained shall prevent the said metropolitan board of works from requiring payment, or relieve the vestry of any parish from the payment, of the sums assessed by such board at such times as they are now entitled by precept to require the same. 25 & 26 Vict. c. 102.

Sums collected in places in schedule C. to 18 & 19 Vict. c. 120, beyond amount of rate for main drainage rate, &c., to be placed to credit of such places.

XI. Where, under or by virtue of any rate or assessment made by an assessor appointed by the said metropolitan board of works, for the metropolis main drainage rate, any monies shall have been or shall be collected in any place mentioned in schedule C. to the firstly recited act (*a*) beyond the amount required to satisfy the amount of the assessment of the said board upon the said place, and the expenses of and incidental to the preparing, making, collecting, and levying such rate or assessment, the excess shall be placed by the said board to the credit of such place, on account of the next assessment upon such place by the said board for the metropolis main drainage rate.

Payment of sums assessed upon places in said schedule C.

XII. For obtaining payment of the sum assessed upon any place mentioned in schedule C. (*a*) to the firstly recited act for the metropolis main drainage rate, the said board shall issue a precept under their seal requiring payment of the amount mentioned in such precept to their treasurer, or into any bank therein mentioned, within such time or times as may be therein limited, and every such precept shall be directed to the masters of the bench, treasurer, governors, or other body or persons having the chief control or authority in any such place; and the body or persons to whom any such precept shall be directed shall raise and levy the money required by the same by means of a separate rate, in like manner and subject to the like provisions as the sewers rate to be made under the provisions of the firstly recited act and this act; and the said body or persons may appoint one or more persons to collect any such rate, and may pay him or them such salary, poundage, or allowance as they may deem just and reasonable, and may take such security from every such collector for the due execution of his duty as they shall think reasonable and proper; and the several provisions hereinafter contained with respect to the levying, paying over, and accounting for monies levied by collectors by direction of any vestry shall be applicable to every such collector; and the several enactments with respect to the levying of monies by the said metropolitan board on the default of vestries and district boards shall apply in case of a default by the body or persons to whom any such precept may be directed by the said board to levy and pay over the money therein named according to the exigency thereof.

Metropolitan board may amend assessments and precepts where necessary.

XIII. It shall be lawful for the metropolitan board of works, in case of any omission or other inaccuracy in any assessment or precept which they have made or issued, to make such amendments or alterations therein as may render the same conformable to the provisions of the recited acts and this act; and it shall be lawful for the said board, should they deem it requisite and proper, to revoke any precept which they may have issued, and to issue another precept in lieu thereof.

Overseers to pay over and account for monies

XIV. Whenever any vestry or district board shall by their order require the overseers of any parish or place to levy and pay over the sum or sums of money which such vestry or board may require, under the provisions of

(*a*) See 18 & 19 Vict. c. 120, p. 410.

25 & 26 Vict. c. 102.

to vestries and district boards.

the said recited acts or this act, such overseers shall, within such period after the levying of the said sum or sums or any part thereof as the said vestry or board shall determine, pay over to the treasurer of the said vestry or board, or to any officer, or into any bank in such order mentioned, the amount mentioned in such order, and the excess, if any, which may have been levied beyond such amount, less the expenses of and incidental to the making and collecting of the same, and shall make out and deliver to the said vestry or board a true and perfect account in writing signed by them, and duly audited by the auditors appointed for such parish or place under the provisions of the firstly recited act, of all monies and rates received by them in pursuance of the said order, and shall for such purpose produce to the said auditors the vouchers, counterfoils, or receipts for all payments made to or by them; and such auditors shall, for the purposes of the said audit, have all and every the powers and authorities given to the auditors named in the 195th section (*a*) of the firstly recited act; and in case any overseers shall fail to pay over such monies or rates as aforesaid, or to render such account, or to produce such vouchers, counterfoils, and receipts for the space of twenty-one days after being thereunto required, they shall be subject to the penalties mentioned and contained in the sixty-fifth section (*b*) of the firstly recited act: provided always, that where the term "overseer" or "overseers" shall extend to and include any vestry elected under the firstly hereinbefore recited act, or any board of trustees or governors of any parish or place chosen under any local act now in force, the provisions of this clause shall not be applicable to such vestry or board of trustees or governors, so long as the orders of the vestry or board shall be duly complied with and satisfied; and in every case in which the vestry does not appoint a collector or collectors to collect such rates, the said overseers are hereby authorised to employ and pay one or more collector or collectors to collect all such rates, and to take from every such collector security for his duly collecting such rates, and paying over and accounting for the same, and such security shall enure to the benefit of the overseers for the time being of every such parish or place, who shall have all such and the same remedies thereon as the overseers to whom such security was originally given.

(*Sic.*)

Power to metropolitan board, vestries, and district boards to demand to be furnished with copies of poor rate, &c.

XV. It shall be lawful for the metropolitan board of works, or for the vestry of any parish mentioned in schedule A. to the firstly recited act, or for any district board, by order in writing, to require the vestry clerk, overseer, collector, or other person having the custody or control of any rate for the relief of the poor in any parish or place, or of any other rate, or of any book containing a copy of any such rate as aforesaid, to furnish, within such period, not being less than seven days, as shall be limited in such order, a true copy of such rate for the relief of the poor, or other rate, or of such copy thereof as aforesaid, or of such part or parts of the same as shall be specified in such order, on payment or tender for such copy at the rate of sixpence for every twenty-four names (inclusive of all the particulars in the several columns in the rate, so far as such particulars have reference to such names respectively), and the said copy shall be examined by and signed by such vestry clerk, overseer, collector, or other person, and shall be verified by his solemn declaration, if the said metropolitan board or vestry or district board shall require the same, which solemn declaration any justice of the peace, or commissioner duly authorised, is hereby empowered to administer; and any person having the custody or control of such rate, or copy thereof, who shall refuse or neglect to make and deliver to such metropolitan board, vestry, or district board, or any person by them authorised to receive the same, such copy or extract, or to make such solemn declaration as aforesaid, shall be liable to a penalty not exceeding ten pounds for every such offence, and to a further penalty not exceeding ten pounds for each and every day during which the said offence shall be continued, to be recovered by a summary proceeding.

(*a*) p. 394. (*b*) p. 356.

25 & 26 VICT. c. 102.

Expenses incurred by vestries named in schedule B. in execution of acts to be paid by district boards.

XVI. Whenever the vestry of any parish mentioned in schedule B. (*a*) to the firstly recited act shall have lawfully incurred any expenses in the execution of the said recited acts or this act, the board of works for the district in which such parish may be situate shall, in case the payment of such expenses is not otherwise provided for, pay and discharge the amount of such expenses out of the monies which they are by the firstly recited act authorised to raise for the payment of the expenses of the execution of such act.

Recovery of monies assessed by metropolitan board on extra-parochial property for payment of debts.

XVII. The sums from time to time assessed by the metropolitan board of works upon or in respect of any extra-parochial or other property which was included in any separate sewerage district under the metropolitan commission of sewers, for or towards payment of any debt or debts charged upon such district at the determination of the said act of the eleventh and twelfth Victoria, chapter one hundred and twelve, or of any interest thereon, for the payment of which provision is not otherwise made in the said recited acts or this act, shall be paid, on demand, to the said board, by the occupier of the tenements or premises, or by the person or persons in receipt of any tolls or profits issuing out of any incorporeal hereditaments in respect of which such assessment shall be made, and every such sum may be recovered by the said board by an action at law or by a summary proceeding before a justice, at the option of the said board.

One summons only to issue for the recovery of rates.

XVIII. In any proceedings before any justice or justices, by or on behalf of any vestry, district board, overseer, or collector, against the occupier or owner of any premises, for the recovery of any rates assessed under the said acts or this act which may be in arrear, all the rates for the recovery of which such proceedings shall be taken shall be included in the same summons, and the charge for such summons shall not exceed one shilling, and the signature of any justice or justices to any such summons may be either in writing or by a stamp affixed as such justice or justices may direct.

Parties lending money to metropolitan board or vestries or district boards not bound to inquire into application of money, regularity of proceedings, &c.

XIX. Whereas by the firstly recited act power is given to the metropolitan board of works and to any district board or vestry to borrow money for the purpose of defraying any expenses incurred by them in the execution of the said act, on the credit of all or any of the monies or rates authorised to be raised by them under the said act: be it enacted, that no corporate body or person or persons lending or proposing to lend money to the said metropolitan board or any vestry or district board, under the provisions of the said acts or this act, or of any act or acts for amending the same, or of any act or acts empowering them or either of them to borrow money, shall be bound to see or obliged to inquire whether the money lent or proposed to be lent is advanced for the purposes of such acts, nor to see or inquire into the application of the money so lent, or any part thereof; nor shall any such respective body or person or persons be bound or required to ascertain that the board or vestry so borrowing, or the meeting or meetings of such board or vestry, was or were properly constituted or convened, or that the proceedings at any meeting were legal or regular; and the common seal of every such board or vestry impressed upon or affixed, pursuant to the order or resolution of such board or vestry, to any mortgage, bond, or other instrument which may have been made or granted by the said board or vestry, shall be binding and conclusive on the said board or vestry by whom any such mortgage, bond, or other instrument may have been so sealed and executed, and their successors.

Public loans commissioners authorised to lend money to metropolitan board, vestries, &c.

XX. It shall be lawful for the commissioners acting in the execution of the act of the session holden in the nineteenth and twentieth years of her Majesty, chapter seventeen, and in the execution of any of the acts recited in that act, or of any act or acts for amending or continuing the same acts or any of them, to make advances to the metropolitan board of works, or to any vestry or district board (*b*), upon the security of all or any of the monies or rates to be assessed or levied by them under the said recited acts or this

(*a*) p. 408. (*b*) See note, p. 126.

25 & 26 Vict. c. 102.

act, and without requiring any further or other security than a mortgage of such monies or rates, repayable by such instalments, within a period not exceeding thirty years, as shall in each case be agreed upon.

Power to stop up carriage or foot-ways, &c.

XXI. It shall be lawful for the said metropolitan board, and they are hereby authorised and empowered, during the construction of any works by them under the recited acts or this act, subject to the provisions of such acts, to cause to be stopped up all or such part of the carriage or foot way of any streets, roads, or ways as shall be necessary for the due execution of the said works.

Power to metropolitan board to take lands for roads, &c.

XXII. The compulsory powers of taking land given to the said metropolitan board by the firstly recited act, and the "Lands Clauses Consolidation Act, 1845" (*a*), shall, subject to the conditions and restrictions in the firstly recited act contained, extend and be applicable to the taking of any lands which they may require for the purpose of making convenient roads or ways to or in connection with any sewers or works vested or hereafter to be vested in the said board, or which they may require for making roads or ways during the construction of any sewerage works, or for spoil banks or places of deposit of surplus earth or other materials in the execution of any such works.

Votes exceeding 2,000*l.* to be confirmed.

XXIII. No resolution made or passed after the passing of this act by the said metropolitan board, authorising the expenditure upon or the construction of any works the estimated cost of which shall amount to or exceed the sum of twenty thousand pounds, shall be carried into execution or be deemed valid and binding until the same shall have been confirmed at a subsequent meeting of the said board duly convened.

Maintenance of bridges, culverts, &c.

XXIV. When the said metropolitan board shall, in exercise of the powers conferred upon them, have constructed any bridges, culverts, arches, or passages in connexion with any sewers or works, all such bridges, culverts, arches, and passages shall at all times after the construction thereof be maintained at the expense of the said board.

Formation and maintenance of bridges, arches, culverts, &c.

XXV. It shall be lawful for the said metropolitan board to make and maintain any bridges, arches, culverts, passages, or roads over, under, or by the sides of or leading to or from any sewerage works constructed or to be constructed by them, which they may deem necessary and convenient for preserving the communications between lands through which the said works may have been or may be made or carried; provided that it shall be lawful for the said board to contract and agree with the owners and occupiers of lands to pay them or any of them compensation in lieu of making or maintaining such bridges or other works.

Time limited for completion of works specified in sect. 1 of 21 & 22 Vict. c. 104.

XXVI. The extension of time authorised and directed by the twenty-sixth section (*b*) of the thirdly recited act, the twenty-first and twenty-second Victoria, chapter one hundred and four, shall be deemed to apply to the sewers and works mentioned in the first section (*c*) of that act for the improvement of the main drainage of the metropolis, and for preventing, as far as may be practicable, the sewage of the metropolis from passing into the Thames within the metropolis.

As to trapping of gullies connected with main sewers.

XXVII. No gully or ventilating shaft immediately connected with or appertaining to, or which hereafter may be immediately connected with or appertain to, any sewer vested in the metropolitan board of works, shall be trapped, covered, or closed up without previous notice in writing being given to the said board, nor if the said board or their engineer within one week after the giving of such notice shall express in writing their or his objection to the same.

Powers as to sewerage not to be transferred to metropo-

XXVIII. Notwithstanding the provision contained in the eighty-ninth section to the firstly recited act (*d*), relative to the transfer by vestries and district boards to the metropolitan board of works of their powers and duties in relation to sewerage and drainage, it shall not be lawful for any

(*a*) See note, p. 118. (*b*) p. 492. (*c*) p. 487.
(*d*) See 18 & 19 Vict. c. 120, p. 864.

vestry or district board to transfer to the metropolitan board of works any such powers or duties without the previous consent in writing of the said metropolitan board.

25 & 26 Vict. c. 102.

litan board without consent of that board.

XXIX. Under the provisions of the two hundred and eleventh and two hundred and twelfth sections (*a*) of the firstly recited act, empowering the committee of appeal of the metropolitan board of works to hear and determine an appeal against any order or act of any vestry or district board, the said committee may allow or dismiss the appeal, or quash or confirm or vary the order appealed against.

Orders to be made by committee on appeals against acts of vestries and district boards.

XXX. In any case in which the metropolitan commissioners of sewers have incurred any expenses authorised by the act of the eleventh and twelfth years of her Majesty, chapter one hundred and twelve, to be paid by an improvement rate, or as charges for default, it shall be lawful for the committee of appeal, appointed under and in pursuance of the two hundred and twelfth section (*a*) of the firstly recited act, to levy improvement rates or charges for default for the recovery of the whole of such expenses, or such portion thereof as shall still remain due and unpaid, in the manner directed by the said act of the eleventh and twelfth years of the reign of her Majesty, chapter one hundred and twelve, and the said committee shall have all the rights and remedies for the recovery thereof which are vested in the said metropolitan board in that behalf; and if any person liable to the payment of any such improvement rate or charges for default fail to pay the same when due, or for the space of fourteen days after the same shall have been lawfully demanded, the said committee of appeal may and they are thereby empowered to summon the defaulter to appear before them to show cause why such improvement rate or charges for default so in arrear should not be paid; and in case the defaulter fail to appear according to the exigency of the summons, or if no sufficient cause for nonpayment be shown, the said committee may by warrant under the seal of the board cause the amount of such improvement rate or charges for default so in arrear to be levied by distress of the goods and chattels of the defaulter.

Committee empowered to make improvement rates, &c., for expenses of works of private improvement executed by the commissioners of sewers, and take other proceedings in relation thereto.

XXXI. So much of section fifty-eight (*b*) of the said act of the eighteenth and nineteenth of Victoria as provides that the acts of every committee shall be submitted to the general body of the board or vestry appointing such committee, for their approval, shall be repealed so far as relates to the metropolitan board; and be it enacted in lieu thereof, that the said metropolitan board shall be at liberty to give such instructions to any committee appointed by such board regulating the conduct of any business deputed to such committee, and such committee shall act in conformity therewith, and shall report to the board all acts done by them in conformity with such instructions.

Part of sect. 58 of 18 & 19 Vict. c. 120 repealed.

XXXII. Whereas it is in and by the firstly recited act provided that the metropolitan board of works shall from time to time, in order to secure the efficient maintenance of the main and general sewerage of the metropolis, make such general or special orders as to them may seem proper for the guidance, direction, and control of the vestries of parishes and district boards in the levels, construction, alteration, maintenance, and cleansing of sewers in their respective parishes or districts, and for securing the proper connexion and intercommunication of the sewers of the several parishes and districts, and their communications with the main sewers vested in the said metropolitan board, and generally for the guidance, direction, and control of vestries and district boards in the exercise of their powers and duties in relation to sewerage, and all such orders shall be binding upon such vestries and boards: be it enacted, that whenever the said metropolitan board shall, in exercise of the said power, have ordered that any sewer or sewers vested in the vestry, district board, or other body acting for any parish or place comprised in the schedules of the firstly-

Communications between sewers in different parishes or districts, and payment of compensation, &c., in consideration thereof.

(*a*) pp. 397-8. (*b*) p. 355.

25 & 26 Vict. c. 102.

recited act, having control over the sewers in one parish, district, or part, shall, for the purpose of outfall or otherwise, be connected with any sewer or sewers vested in the vestry or district board of another parish, district, or part, or other body having control over the sewers in such parish, district, or part, it shall be lawful for the vestry, district board, or other body, for the drainage of whose parish, district, or part such connexion shall be required, and at whose instance and request such order shall have been made, to execute all necessary works as well within their own parish, district, or part as within any other parish, district, or part which shall be specified in the said order of the metropolitan board for effecting such connexion: provided that every communication to be made by any vestry, district board, or other body with any sewer out of their own parish, district, or part shall be made under the supervision and to the satisfaction of the board, vestry, or other body having control over such last-mentioned sewer; and where it shall appear to the said metropolitan board to be equitable and just, under the circumstances of the case, that any vestry, board, or other body so connecting their sewers with the sewers vested in another vestry, district board, or other body should pay such last-mentioned vestry, board, or body any compensation or remuneration, either in one sum or by yearly or other payments, for the use of their sewer, it shall be lawful for the said metropolitan board to order and direct payment of such compensation or remuneration accordingly, and the vestry, board, or other body to whom any such payment shall be directed to be made may recover the same from the vestry, board, or body directed by such order to make such payment, either by action at law or before a justice of the peace in a summary manner.

Regulations as to breaking up turnpike roads.

XXXIII. The one hundred and fifty-seventh section (a) of the firstly recited act is hereby repealed; and in lieu thereof be it enacted, that the metropolitan board of works, and any vestry or district board may, where necessary for the purpose of executing any work authorised by the recited acts or this act, open and break up any turnpike road, under and subject to the restrictions and provisions hereinafter contained; that is to say, three days previous notice, with a full description of any intended works, shall be left at the office of the commissioners or trustees of the road, and, except by the permission of the said commissioners or trustees, the traffic of the road shall not at one time be stopped or hindered along more than half of its width, nor, if the half left open be of less than the clear width of fourteen feet, along more than one hundred yards in length, and the party doing the works shall cause all openings in the road to be effectually secured and fenced, and affix and maintain lights during the night near to the place where the ground is open, so as to prevent accidents; and the said commissioners or trustees are hereby absolved from all liability in respect of any accident arising in consequence of such works; and the party doing the work shall restore every road so opened or broken up to its original state as to surface and materials, and, in order to meet the future expenses consequent on the subsidence of materials newly filled in, shall pay to such commissioners or trustees, on demand, such sum as they shall require for such purpose, not exceeding one shilling for every superficial square yard, and, so far as the works affect the same, shall make good all drainage, paving of water channels, kerbs, or footpaths, and other matters and things connected with the maintenance of the road, and in default the surveyor of the said commissioners or trustees may cause the necessary work to be done; and in all cases of expense incurred by any such surveyor on the default of the party doing the works, such party shall pay such expense to the commissioners or trustees, on demand.

lan, &c., works fecting llways or ials to be

XXXIV. Where any works authorised by this or the recited acts will interfere with any railway or canal, the board or vestry proposing to construct such works, shall before commencing the same give notice in writing

(a) p. 382.

f their intention so to do to the company owning such railway or canal, nd shall, together with such notice deliver a plan and section showing the ature of such interference; and if within seven days after the receipt of uch notice the company shall by writing, addressed to the board or vestry, bject to the manner in which it is intended to interfere with such railway r canal respectively, on account of the probable interruption or endanger- ng of the traffic thereon, the same works shall not be commenced; and it hall thereupon be referred to an engineer, to be appointed by the board of rade, on the application of either party, to determine the manner of exe- uting the said works, and the determination come to by such engineer hall be binding on both parties.

Works submitted to companies.

XXXV. Provided always, that it shall not be lawful for any board or estry to alter the level of any railway or canal, unless with the consent of he company owning the same respectively, or, if that be refused, with the onsent of the board of trade; and provided also, that nothing in this ct contained shall take away or affect the right of any railway or canal ompany to compensation for the taking or injuriously affecting of any land r property of such company, or for or by reason of the interruption of any raffic on their railway or canal, or for any damages, costs, or expenses hich such company may be required to pay in consequence of such nterruption.

Line of railway not to be altered.

XXXVI. The inspectors of votes directed to be appointed under the irstly recited act for any parish, or, where any parish is divided into vards, for any ward of a parish, may, before commencing the duties f their office under the said act, appoint by writing under their hands n umpire; and in case the said inspectors shall be unable to agree upon r determine by a majority any matter which they are by the said act equired to determine, such matter shall be decided by the said umpire, nd his decision in relation thereto shall be final and conclusive.

Inspectors of votes to appoint umpire.

XXXVII. Every vestry and district board constituted under the firstly recited act, or this act, may hold their meetings on such days of the week, except Sundays, as they may from time to time determine, notwithstanding any provision to the contrary contained in any local act; and any business which, by any local or other act of parliament, or custom, should be done by any such vestry on a certain day, may be done at any meeting of such vestry duly convened for the purpose, and held within seven days next before or after such certain day as aforesaid: provided that where the hour or time for holding such meetings is fixed by the local act they shall continue to be held at the same hour or time.

Vestries and district boards may appoint their days of meeting.

XXXVIII. Notwithstanding anything in the one hundred and ninety-fifth section of the firstly recited act (*a*) contained to the contrary, if any person aggrieved by any allowance, disallowance, or surcharge by any auditors of the accounts of any vestry or district board require such auditors to state the reasons for the said allowance, disallowance, or surcharge, the auditors shall state such reasons in writing in the book of account in which the allowance, disallowance, or surcharge may be made; and it shall be lawful for every person aggrieved by such allowance, disallowance, or surcharge to apply to the court of Queen's bench for a writ of certiorari to remove into the said court the said allowance, disallowance, or surcharge, in the like manner and subject to the like conditions as are provided in respect of persons suing forth writs of certiorari for the removal of orders of justices of the peace, except that the condition of the recognizance shall be to prosecute such certiorari at the costs and charges of such person, without any wilful or affected delay, and if such allowance, disallowance, or surcharge be confirmed, to pay to such auditors or their successors, within one month after the same may be confirmed, their full costs and charges, to be taxed according to the course of the said court, and except that the notice of the intended application, which shall contain

Certiorari for auditors' allowances or disallowances.

(*a*) See 18 & 19 Vict. c. 120, p. 394.

25 & 26 Vict. c. 102.

a statement of the matter complained of, shall be given to such or their successors, who shall in return to such writ return a c the hands of a majority of them of the entry or entries in suc account to which such notice shall refer, and shall appear before court, and defend the allowance, disallowance, or surcharge so i in the said court, and shall be reimbursed all such costs and c they may incur in such defence out of the funds of the vestry board respectively interested in the decision of the question, unles court make any order to the contrary; and on the removal of s ance, disallowance, or surcharge the said court shall decide the matter of complaint set forth in such statement, and no other; appear to such court that the decision of the said auditors was they shall, by rule of the court, order such sum of money as may improperly allowed, disallowed, or surcharged to be paid to entitled thereto by the party who ought to repay or discharge and they may also, if they see fit, by rule of the court, order the c person prosecuting such certiorari to be paid by the vestry or distr to which such accounts relate, as to such court may seem fit, wh of court respectively shall be enforced in like manner as other ru said court are enforceable.

Provision in case of a vestryman being returned for more than one ward.

XXXIX. If any person be returned to serve in any vestry than one ward, he shall on or before the next meeting of the ve such election signify in writing to the clerk of such vestry his deci the ward which he may desire to represent on such return; and or at such meeting he shall refuse or neglect so to do, the ve determine the ward which he shall represent; and the vacancy o by such determination or decision shall be filled up by an elect held for that purpose within one month from the date of such d tion or decision, such elections to be conducted in the like manne annual elections of vestrymen.

Elections to be held annually for supplying vacancies occasioned by expiration of term of office.

XL. The thirty-fifth section (*a*) of the recited act of the eighte nineteenth Victoria is hereby repealed; and in lieu thereof be it that the vestry constituted by the said act in every parish men the second column of schedule B. (*b*) to the same act shall, on Wednesday in the month of June in the year one thousand eight and sixty-three, and in every subsequent year, elect so many pers lified by rating and occupation, as required by the same act and th act of the nineteenth and twentieth Victoria to be elected vestrymen parish, to be members of the board for the district in which such comprised, as may be necessary for supplying the vacancies among t bers of such board elected for such parish occasioned by expiratio term of office of the members going out of office at the time of such

As to division into wards when parish contains 2,000 houses.

XLI. When at any time, upon any account taken of the popul the authority of parliament, any of the parishes within the m not now divided into wards for the purpose of electing vestrym be found to contain more than two thousand rated householders, be lawful for the metropolitan board of works, upon the applic writing of the vestry, or of not less than five hundred rated hous of the parish, to divide such parish into wards, and to determine out the number, extent, limits, and boundary lines of such wards nevertheless that no ward shall contain less than five hundre householders, and that the whole number of wards shall not exceed and the metropolitan board shall apportion among the several w number of vestrymen to be elected for such parish, and shall, in a the number of vestrymen to each ward, have regard, as far as i judgment is practicable, as well to the number of persons rated relief of the poor in each ward as to the aggregate amount of th at which all such persons are rated; and the number of ves

(*a*) p. 350. (*b*) p. 498.

signed to each ward shall be a number divisible by three, and a copy of the particulars of such division and apportionment shall be forthwith transmitted to one of her Majesty's principal secretaries of state for his approval, and also to the vestry clerk of the parish to which such division and apportionment relate; and the said particulars shall, within seven days after such transmission, be published by the said board in the London Gazette; and at the expiration of not less than two calendar months the said secretary of state shall, if he approve of the same, publish the said particulars again with his approval affixed thereto in the London Gazette; but if the said secretary of state disapprove of the proposed division into wards or apportionment of vestrymen, then he shall, subject, however, to all the above limitations, make such other division or apportionment as in his judgment shall be more conducive to a fair representation in the vestry of the interests of the ratepayers of the said parish, and shall publish the particulars of such fairer division and apportionment in the London Gazette, and the parish shall, after such publication by him in the London Gazette, be deemed to be divided into such wards so determined and set out.

No parish shall be annexed without previous notice.

XLII. No representation shall be made under the two hundred and forty-ninth section of the firstly recited act (*a*), unless and until the metropolitan board of works shall have given to the churchwardens and surveyors of highways of the parish to which such representation relates two months' notice in writing under their common seal of their intention to make such representation and of the provisions which it is intended to propose in such representation; and the said churchwardens and surveyors of highways shall, immediately after receiving such notice as aforesaid, summon a vestry meeting of the parish, and submit such notice to the consideration of the said meeting; and such representation of the said metropolitan board shall be accompanied by a copy of all resolutions or statements that may have been made to the said board in writing by the said churchwardens and surveyors of highways, or either of them, by direction of such vestry meeting.

Annual report of officer of health.

XLIII. The officer or officers of health for each parish or district shall make an annual report to the vestry or district board of the sanitary condition of the parish or district, and upon the other matters set forth in the one hundred and thirty-second section (*b*) of the firstly recited act, and it shall not be necessary to append to the annual report of the vestry or district board, to be made in the month of June in each year, a copy of any other report of such officer or officers than such annual report.

Owners and occupiers of land may execute works of drainage at their own expense.

XLIV. It shall be lawful for the owners or occupiers of any land or premises in any parish, district, or part within the limits of the metropolis as defined by the firstly recited act, with the consent and subject to the regulations and conditions hereinafter mentioned, to construct sewers at their own expense for the purpose of draining such land or premises; and it shall be lawful for any vestry or district board in whom the sewers in any parish, district, or part are vested, if they shall deem it just and proper so to do, to contribute out of the rates under their control applicable to the execution of works of sewerage to the cost of any sewers constructed for the purpose aforesaid.

Vestries, &c., to submit plans of new sewers to metropolitan board.

XLV. Any vestry or district board intending to construct any sewer shall, before commencing any works for that purpose, submit to the metropolitan board of works a plan of the street or place in which it is proposed to construct such sewer, drawn to such a convenient scale or scales as the said metropolitan board shall direct, and there shall be shown on such plan the position, course, and dimensions of the proposed sewer, with a section or sections thereof, and such other particulars in relation thereto as the said metropolitan board shall deem necessary and require, and no

(*a*) See 18 & 19 Vict. c. 120, p. 406. (*b*) p. 375.

25 & 26 Vict. c. 102.

such sewer or works shall be proceeded with without the approval in writing or contrary to the directions of the said board.

Communications with main sewers.

XLVI. Three clear days' notice in writing shall be given to the metropolitan board of works by any vestry or district board previously to the connexion of any sewer or drain with a main sewer; and the necessary junction or communication for that purpose shall be made by such vestry or district board to the satisfaction of the said metropolitan board.

Private parties before branching sewers into main or district sewers to apply for sanction of vestries, &c.

XLVII. Every person other than a vestry or district board intending to make or branch a sewer, either into a sewer vested in the metropolitan board of works, or into a sewer vested in any vestry or district board, shall in the first instance lay the plan and section thereof before, and apply for the sanction of, the vestry or district board of the parish, district, or part in which such last-mentioned sewers shall be situate; and no sewer shall be begun to be made by such person until the sanction in writing of such vestry or district board shall have been obtained.

Vestries, &c., before sanctioning sewers, to apply for approval of metropolitan board.

XLVIII. Before any vestry or district board shall sanction the construction of any such sewer they shall submit the plan and section thereof to the metropolitan board of works for their approval, in the same manner as if such sewer were proposed to be constructed by such vestry or district board; and no vestry or district board shall sanction the construction of any such sewer without the approval in writing of the said metropolitan board first had and obtained.

Seven days' notice must be given before drains can be branched into main sewers.

XLIX. All persons intending to make or branch any drain into a sewer vested in the metropolitan board of works shall, seven clear days before commencing any works for that purpose, make written application to the vestry or board of the parish, district, or part in which such sewer shall be situate, accompanied by a plan showing such particulars as may be required by any byelaw or resolution of the said metropolitan board; and no such work shall be commenced until the sanction in writing of the said vestry or district board shall have been given.

Regulations as to abandonment, alteration, &c., of designs for sewers previously approved.

L. When it shall be desired to abandon either wholly or in part, or to extend, contract, or alter, any design for a sewer previously submitted to and approved by the metropolitan board of works, notice in writing of such desire shall be given by the vestry or district board by whom such approval shall have been obtained to the said metropolitan board, accompanied by plans and sections showing the nature of the abandonment, extension, contraction, or alteration desired; and no such abandonment, extension, contraction, or alteration shall be made without the previous approval in writing of the said metropolitan board; and no person other than a vestry or district board shall abandon wholly or in part, or extend, contract, or alter in construction, any sewer approved or sanctioned by the metropolitan board of works, without the previous sanction in writing of the vestry or district board in whose parish or district the works were intended to be executed, to be applied for and given in the same manner as hereinbefore directed with respect to new sewers.

In case sewer be not constructed within 12 months, fresh application to be made.

LI. In case any sewer sanctioned and approved by the metropolitan board of works as hereinbefore provided shall not be constructed or executed within twelve calendar months from the date of such sanction or approval, the works for the construction of such sewer shall not be executed without a fresh permission by the metropolitan board, and their written sanction that the necessary works for the construction of such sewer may proceed, to be applied for and obtained in manner hereinbefore provided with respect to the original permission for the construction of such sewer.

Expense of constructing sewers in new streets and streets laid

LII. Where any sewer shall, after the passing of this act, be constructed by any vestry or district board in and for the drainage of any new street, or of any house or houses erected since the first day of January one thousand eight hundred and fifty-six, the expense of constructing such sewer and the works appertaining thereto, including the cost of gullies,

side entrances, lengths of sewer at the intersection of streets, and other incidental charges and expenses, shall be borne and defrayed by the owners of such street or houses, and of the land bounding or abutting on such street respectively, and the said expenses shall be apportioned by the vestry or district board in such proportions as they may deem just, and the amount charged upon or payable in respect of each house or premises shall be payable before the works shall be commenced, during their progress, or after their completion, as the vestry or district board shall in each case determine, either in one sum or by instalments, within such period, not exceeding twenty years, as the vestry or district board shall direct; and any such sum or instalments shall be recoverable from the present or any future owner of the said house or premises either by action at law or in a summary manner before a Justice of the peace, at the option of the vestry or board.

out since 1st Jan., 1856.

Expense of constructing sewers where there had before been only open sewers.

LIII. Where any sewer shall be constructed by any vestry or district board in a street in which previously to such construction there had been no sewer, or only an open sewer, but where sewers rates have been levied previously to such construction, the expense of constructing such sewer and the works appertaining thereto, including the cost of gullies, side entrances, lengths of sewer at the intersection of streets, and other incidental charges and expenses, shall be borne and defrayed in part only by the owners of the houses situate in and of the land bounding and abutting on such street respectively; and the amount to be borne by such owner shall be determined by the vestry or district board in each particular case, and the residue of such expenses shall be defrayed by the vestry or district board out of the sewers rate levied in their parish or district; and the amount so charged by the vestry or district board upon or in respect of each house or premises shall be payable, either before the works shall be commenced, during their progress, or after their completion, as the vestry or board shall in each case determine, either in one sum or by instalments within such period, not exceeding twenty years, as the vestry or board shall direct; and any such sum or instalment shall be recoverable from the present or any future owner of such house or premises, either by action at law or in a summary manner before a justice of the peace, at the option of the vestry or board; provided that no street or property in respect of which sewers rates have been levied for five years prior to the first day of January one thousand eight hundred and fifty-six shall be subject to be charged under the provision contained in the section.

Land may be charged in a less proportion than house property.

LIV. In apportioning the cost of constructing sewers under the provisions contained in the two last preceding sections of this act relating to the construction of sewers wholly or partly at the cost of private parties, it shall be lawful for any vestry or district board to charge the owners of land bounding or abutting on any street in a less proportion than the owners of house property, should they, under the circumstances of the case, deem it just and expedient so to do.

Where estimated expenses exceed actual cost, difference to be refunded by, and where less to be paid to, vestry, &c.

LV. In any case in which the estimated expenses shall exceed the actual cost of constructing sewers under the provisions contained in the said two preceding sections of this act relating to the construction of sewers wholly or partly at the cost of private parties, then the difference between such estimated expenses and the actual cost shall be repaid by the vestry or board to the owners of the houses or premises by whom the amount of any such estimated expenses may have been paid; and in any case in which the estimated expenses shall be less than the actual cost of constructing any sewer or sewers under the provisions aforesaid, then the owners of the said houses or premises shall, on demand, pay to the said vestry or board such further sum of money as, together with any sums already paid, will make up the amount of the actual cost; and the vestry or district board shall have all the same remedies for the recovery of such further sum as

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are hereinbefore given for recovering any expenses apportioned by vestries or district boards under the said enactments.

Vestry or district board may defray part of expense out of sewer rates.

LVI. It shall be lawful for the vestry or district board, should they deem it reasonable and just so to do, at their discretion to defray, out of the sewers rates to be levied in their parish or district, any portion of the expenses of and incident to the construction of sewers under the provisions contained in the said two sections of this act relating to the construction of sewers wholly or partly at the cost of private parties.

Appeal against orders of vestries, &c., as to amount or apportionment of expenses.

LVII. Any person who may deem himself aggrieved by any order or resolution of any vestry or district board in relation to the expenses of constructing works under the said two sections of this act relating to the construction of sewers wholly or partly at the cost of private parties, or the apportionment of such expenses, may appeal to the metropolitan board of works against such order or resolution, subject in all respects to the directions and provisions contained in the two hundred and eleventh section (*a*) of the firstly recited act, and the section of this act relative to the form of order to be made by the committee of appeal of the metropolitan board of works against orders or acts of vestries or district boards.

Execution of works of sewerage by vestries and district boards beyond the limits of the metropolis.

LVIII. Whereas the vestries of the parishes mentioned in schedule A. (*b*) of the firstly recited act and district boards are, by the sixty-ninth section of the said act (*c*), subject to the powers vested in the metropolitan board of works, empowered to make, repair, and maintain sewers vested in them, and to do and perform other works and matters as in the said section is mentioned, and it is expedient to give increased facilities to such vestries and district boards for the execution and performance of such works and matters: be it therefore enacted, that whenever it shall be found necessary by the vestry of any parish mentioned in schedule A. (*b*) to the said act, or by the board of works of any district mentioned in schedule B. (*d*) to the said act, for the purpose of executing works for any of the purposes mentioned in the said section, to carry any sewer or work beyond the limits of the metropolis as defined by the said act, it shall be lawful for any such vestry or district board to execute works in parts situate beyond or without such limits, and to cleanse, repair, and maintain such works as they shall from time to time deem necessary: provided always, that no work shall be performed or commenced by any vestry or district board beyond the limits of the metropolis as above defined, except for the purpose of continuing or forming part of a work commenced or executed within their respective parish or district; nor shall any such works be performed or commenced without the consent in writing of the metropolitan board of works for that purpose first had and obtained, nor without the consent of the vestry or district board, or authorities of the parish or place through which the work may pass; but if any such vestry or district board or authority shall refuse such consent, one of her Majesty's chief secretaries of state shall have authority under this act to decide whether such consent ought to be withheld, and such secretary of state may make such order as to him shall seem just; but nothing herein contained shall apply to any work for the purpose of the main drainage of the metropolis under the recited acts: provided also, that no new sewer, either within or beyond the limits of the metropolis shall be made or executed by any vestry, district board, or other body having control over sewers within the metropolis without the previous approval of the said metropolitan board.

Proviso.

Contribution to cost of main sewers and sewers built since

LIX. The provisions contained in the eightieth section (*e*) of the firstly recited act, empowering vestries and district boards to order, at their discretion, under the circumstances therein mentioned, such sums as they shall deem just to be paid and contributed by the owners of houses towards the expense of the construction of sewers into which drains from such

(*a*) p. 397. (*b*) p. 407. (*c*) p. 358. (*d*) p. 408. (*e*) p. 361.

houses shall be made or branched, shall be extended, and the same are hereby extended and made applicable to the metropolitan board of works with respect to houses draining into main sewers constructed at the expense of any person or body other than any commissioners of sewers, and which are vested in the metropolitan board; and the same provisions are hereby extended and made applicable to all sewers within the limits of the metropolis as defined by the firstly-recited act, built since the first day of January one thousand eight hundred and fifty-six, or which may hereafter be built at the expense of any person or body other than the metropolitan board of works, or any vestry, district board, or other body having control over sewers within the metropolis, into which house drains may be made or branched; and the said metropolitan board, vestry, district board, or other body, as the case may be, may at their discretion accept payment of contribution from the owners of houses draining into such sewers respectively, either in one sum or by instalments within any period not exceeding twenty years, with interest after a rate not exceeding five pounds by the hundred by the year, as the said board, vestry, or other body shall in each case determine, and shall on receipt of any such contribution or instalment pay over the same to the person or body entitled thereto; and every sum payable to the said board, vestry, or other body by way of contribution to the construction of sewers shall be recoverable from the present or any future owner of the said premises either by action at law or before a justice of the peace in a summary manner, at the option of the board or vestry: provided that nothing herein contained shall prejudice or affect the right of vestries and district boards to demand and recover from the owners of houses and land the sums charged upon them by such vestry and district boards respectively under the provisions contained in this act.

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1st Jan., 1856, or hereafter to be built.

Where time is given for payment of contribution the metropolitan board shall keep a register.

LX. In all cases in which time shall be given by the metropolitan board of works, or by any vestry, district board, or other body, for the payment of any contribution to the cost of a sewer as aforesaid, the metropolitan board of works shall keep a register of all such orders for contribution, which register shall contain the description of the premises, the amounts payable, the periods for payment, and other necessary particulars; and such register shall be open to inspection by parties interested during office hours without payment of fee or reward; and every vestry, district board, or other body giving time for payment of any such contribution as aforesaid shall forthwith transmit to the said metropolitan board a copy of their order or resolution in that behalf made, and such other particulars in relation thereto as the said board may deem necessary and require.

Regulations respecting openings into sewers.

LXI. The seventy-seventh section of the firstly-recited act is hereby repealed; and in lieu thereof be it enacted, that no person shall make or branch any sewer or drain, or make any opening into any sewer vested in the metropolitan board of works, or in any vestry or district board, without the previous consent in writing of such board or vestry: provided that it shall be lawful for any person, with such consent, at his own expense, to make or branch any drain into any sewer vested in such board or vestry, or authorised to be made by them or either of them under the firstly-recited act or this act, such drain being of such size, materials, and other conditions, and branched into such sewer in such manner and form of communication in all respects, as the board or vestry shall direct or appoint: provided also, that where any contribution to the cost of a sewer is payable in respect of drainage into the same, it shall not be lawful for any person to make or branch any drain into such sewer, except in conformity with the directions of the board or vestry in whom the same shall be vested with respect to payment of contribution under the provisions contained in the firstly-recited act and this act in that behalf; and in case any person, without the consent of the said metropolitan board, district board, or vestry as aforesaid, make or branch, or cause to be made or

25 & 26 Vict. c. 102.

branched, any sewer or drain, or make any opening into any of the sewers vested in any such board or vestry, or authorised to be made by them as aforesaid, or if any person make or branch, or cause to be made or branched, any drain of a different construction, size, material, or other conditions, or in another manner or form of communication than shall be directed or appointed by such board or vestry, every person so offending shall for every such offence forfeit a sum not exceeding fifty pounds; and the board or vestry may cut off the connection between such drain and their sewer, or if they shall see fit execute the necessary works for making the said drain conformable to their regulations or directions at the expense of the person making such drain or causing the same to be made, such expenses to be recovered either by action at law or in a summary manner before a justice of the peace, at the option of the board or vestry.

Reports as to underground rooms occupied as dwellings.

LXII. Every district surveyor required to report by the one hundred and third section of the firstly-recited act (*a*), shall, without fee or reward, report to the metropolitan board, and to every vestry and district board in the district in which such surveyor may act, in the months of June and December in each year, and at all other times when he shall be required so to do by any such board or vestry, all underground rooms or cellars occupied as dwellings within the meaning of the first-recited act that are not built or constructed in conformity with the rules contained in the said section, and shall in such report set forth the exact locality in which such underground rooms or cellars are situate; and in any proceedings taken to recover the penalty under the said one hundred and third section of the said act, such evidence as may give rise to a probable presumption that some person passes the night in such room or cellar shall be evidence, until the contrary be made to appear, that such has been the case.

Extension of time under sect. 76 of 18 & 19 Vict. c. 120, for making orders by vestries and district boards.

LXIII. Whereas by the seventy-sixth section (*b*) of the firstly-recited act it is provided that the vestry or district board shall make their order in relation to the matters therein referred to, and cause the same to be notified to the person from whom the notice mentioned in the said section was received within seven days after the receipt of such notice, and it is expedient that the time for making such order should be extended: be it therefore enacted, that where any notice shall have been given to any vestry or district board pursuant to the said section, it shall be lawful for the surveyor of such vestry or board, if he shall deem it necessary and proper so to do, within three days after the receipt of such notice by the vestry or district board, by writing under his hand directed to and served upon the person giving such notice, to require that the building or works referred to therein shall not be proceeded with until after the then next meeting of the said vestry or district board, and until their directions in reference thereto shall have been notified to such person, provided that the order of the said vestry or district board shall be made and notified to the said person at the latest within fifteen days after the receipt of such notice by the vestry or district board; and in case any person shall proceed with any building or works contrary to this enactment he shall forfeit and pay to the vestry or district board a sum not exceeding five pounds, and also a further sum of forty shillings for every day during which such offence shall continue, to be recovered by action at law or in a summary manner at the option of the vestry or board.

Where parties neglect to carry out works pursuant to order of vestry, the vestry may recover

LXIV. Whereas by the seventy-third, seventy-fourth, seventy-sixth, eighty-first, eighty-fifth, and eighty-sixth sections of the firstly-recited act (*c*), certain works, matters, and things are required to be constructed, made, or executed on the requisition of vestries and district boards by the owners or occupiers of the premises therein referred to; and in case any such owner or occupier refuse or neglect to commence, proceed with, or complete the same, as the case may be, the vestry or district board are

(*a*) Sec 18 & 19 Vict. c. 120, p. 388. (*b*) p. 360. (*c*) pp. 359-362

uthorised to perform and execute such works, matters, and things, and ecover the costs incurred thereby in manner therein provided: be it nacted, that in case of any such neglect or default by any person or persons to comply with the order of any vestry or district board to xecute any works, matters, or things under any of the said provisions, the erson or persons so offending shall forfeit and pay to the vestry or district oard a sum not exceeding five pounds, and also a further sum not exceeding forty shillings for every day during which such offence shall continue, o be recovered by action at law or before a justice of the peace in a ummary manner, at the option of the vestry or district board; and the estry or district board may at their discretion either execute or perform ny such works, matters, or things, and recover the costs and expenses hereof from the owner of the property as aforesaid, or proceed for and ecover the said penalty or penalties (*a*); but nothing herein contained shall ender any person or persons liable to be proceeded against for the penalty s well as for the costs and expenses of the works.

penalty or do the works.

Penalties in 18 & 19 Vict. c. 120, extended to persons causing offences.

LXV. The penalties declared by the firstly-recited act in the case of ersons committing the offences mentioned therein are hereby extended and nade applicable to all persons causing the commission of any such offences, r by whose order or direction any such offences shall have been committed.

Temporary provision for drainage of property where no proper sewer within 200 feet.

LXVI. Whereas certain property within the limits of the metropolis is o situate as to render it impracticable, or practicable only at undue xpense, to connect such property with covered sewers, and it is expedient hat some temporary provision should be made for draining such property nd abating the nuisances existing thereon or caused thereby: be it there- ore enacted, that in any case in which any house or other building, whether erected before or after the passing of this act, is without sufficient rainage, and there is no proper sewer within two hundred feet of any art of such house or building, it shall be lawful for the vestry or district oard of the parish or district in which such house or building is situate, y notice in writing, to require the owner of such house or building to construct and lay from such house or building a covered drain to lead therefrom into a covered water-tight cesspool or tank or other suitable receptacle, ot being under a house or within such distance from a house as the vestry r board shall direct, and to construct such cesspool, tank, or receptacle; nd the several provisions in the firstly-recited act with respect to the laying of house drains at the expense of the owners of property, and the recovery of such expenses of and the penalties for any omission in respect to the performance of any such works pursuant to the orders of vestries or district boards in accordance with the directions of the said act, shall be extended to and apply to the making of such cesspools, tanks, receptacles, and drains, and the orders of vestries and district boards in relation thereto and the expenses thereof.

Vestries, &c., may compel supply of water for houses.

LXVII. If it shall appear to any vestry or district board that any house within their respective parishes or districts is without a proper supply of water, and that such supply can be furnished to such house at a rate not exceeding threepence per week, conformably with the scale of rates authorised to be charged by any water company within the metropolis as defined by the firstly-recited act, the said vestry or district board may give notice in writing to the owner or occupier of such house, requiring him, within a time specified therein, to obtain such supply, and to do all such works as may be necessary for that purpose; and if such notice be not complied with, the said vestry or district board shall do such works and recover the expenses thereof from the owner of the premises as hereinafter provided; and any water company shall, upon the requisition of such vestry or board, supply with water such house, and the rates for the supply of such house or houses as aforesaid shall be due and payable by the said owner, and shall be recovered by the company as if such owner had contracted with

(*a*) See note, p. 42.

25 & 26 Vict. c. 102.

the company for the supply of such water. In any case where it shall appear to any vestry or district board that the existing supply of water to any house within their respective parishes or districts would be sufficient for such house if the same were inhabited by a lesser number of persons, but is insufficient by reason that the same is inhabited by numerous persons (being more than one single family), it shall be lawful for such vestry or district board to give notice in writing to the occupier of such house, requiring him, within a time specified therein, to obtain such further supply (not exceeding a supply at the rate of thirty gallons per day for each person) as to them shall appear necessary, and to do all such works as may be necessary for that purpose; and if such notice be not complied with within the time therein specified, it shall be lawful to take proceedings for overcrowding, in the manner provided by the "Nuisances Removal Act for England, 1855;" and upon proof of the fact that the water supply is not sufficient by reason of the number of persons inhabiting the said house (being more than one family), it shall be lawful for the justices to make the like order and to inflict the like penalty as in any other case of overcrowding.

Penalty on persons placing buildings or encroachments on sewers.

LXVIII. Every person who shall knowingly erect or place any building, wall, bridge, fence, obstruction, annoyance, or encroachment in, upon, over, or under any sewer under the jurisdiction of the metropolitan board of works, or of any vestry or district board, and every person obstructing, filling in, or diverting any sewer or drain under the jurisdiction, survey, or control of the metropolitan board, or of any vestry or district board, without the previous consent in writing of the board or vestry in whom the same may be vested, shall, in addition to any other proceeding to which he may be liable therefor, forfeit and pay to such respective board or vestry a sum not exceeding twenty pounds for every such offence; and the board or vestry may demolish and remove any such building, wall, bridge, fence, obstruction, annoyance, or encroachment, and perform any works necessary for restoring or reinstating the sewer or other work or thing damaged; and the party erecting such building, wall, bridge, fence, or causing such obstruction, annoyance, or encroachment, shall also pay the expense of removing and abating them respectively, and of re-opening, restoring, repairing, or reinstating any sewer or drain obstructed, filled in, closed up, or diverted; and in case of a continuing offence in any of the cases aforesaid the offender shall be liable to a further penalty, not exceeding five pounds, for each day after notice thereof from the metropolitan board of works, or from the vestry or district board, to be recovered by action at law or before any justice of the peace by a summary proceeding, at the option of the board or vestry: provided always, that nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any buildings or works under which a sewer or drain has been constructed, but so, nevertheless, that such buildings or works shall not injure or obstruct the said sewer or drain

Penalty on persons interfering with sewers.

LXIX. Any person who shall take up, remove, demolish, or otherwise interfere with any sewer or part of a sewer vested in the metropolitan board of works, or in any vestry or district board, without the previous permission in writing of such board or vestry, or who shall wilfully damage any sewer, bank, defence, wall, penstock, grating, gully, side entrance, tide valve, flap, work, or thing vested in the metropolitan board or any vestry or district board, or do any act by which the drainage of the metropolis or any part thereof may be obstructed or injured, shall for every such offence forfeit and pay to the said metropolitan board of works, or to the vestry or district board aggrieved by any such act, for every such offence a sum not exceeding twenty pounds, and shall also pay to such board or vestry all the expenses of repairing, restoring, reinstating, or amending any sewer or other work or thing so taken up, removed, demolished, damaged, or interfered with, to be recovered by action at law or before a

justice of the peace by a summary proceeding, at the option of the board or vestry. 25 & 26 Vict. c. 102.

Vestries in schedule A. and district boards empowered to provide and maintain drinking fountains.

LXX. The vestry of any parish mentioned in schedule A. to the said firstly-recited act and any district board may provide and maintain drinking fountains in such convenient and suitable situations as they may deem proper, and may undertake the maintenance of any drinking fountain already erected within such parish or district, and supply the same with water and defray the expenses thereof; and any expenses incurred by any vestry or district board in providing or maintaining any such fountains or supplying the same with water shall be paid out of the general rate authorised to be raised and levied under the firstly-recited act; and any person guilty of wilfully fouling the water in any drinking fountain so erected or maintained, or of wilfully damaging any of the said fountains, or any part thereof, shall forfeit and pay to such vestry or district board for every such offence a sum not exceeding five pounds, to be recovered by a summary proceeding, and shall also pay to such vestry or district board the expenses of repairing or reinstating any such fountain, or any part thereof, so injured as aforesaid.

Income of estates, property, &c., subject to trusts for repair of highways, to be paid over to vestry or district board.

LXXI. All property, rights, matters, and things whatsoever which before the passing of the firstly-recited act were vested in any surveyor or surveyors of highways in connexion with their duties and powers as such surveyor or surveyors, transferred by that act to any vestry or district board, shall be deemed to have become transferred to and to have vested in such vestry or district board by virtue of the said act; and so much of the yearly and other income of all estates, property, and effects of whatsoever description so vested and transferred as aforesaid as is or may be subject to any use or trust for or in respect of and applicable to the repair of any highways within the metropolis shall be applicable to the repair, maintenance, and improvement of the highways within the metropolis under the provisions of the said act, and shall from time to time be accounted for and paid over to the respective vestries and district boards, and be applied by them for the purposes of the highways within their parishes and districts, in the same manner as the same could lawfully have been applied before the passing of the said act.

Vestries and district boards may, with consent of metropolitan board, effect improvements within their parish or district.

LXXII. The vestry of every parish mentioned in schedule A. to the firstly-recited act, and the district board of every district, shall, with the previous consent in writing of the metropolitan board of works, have power within their respective parish or district to make, extend, widen, alter, or improve any street, road, or way, or any bridge over a canal traversing any part of such parish or district, for the purpose of facilitating passage and traffic, or for any other public purpose; or to contribute and join with the metropolitan board, or with any other body or persons, in any such improvements; and to take by agreement or gift any land, right in land, or property for the purposes aforesaid, or any of them, on such terms and conditions as they may think fit; and for the purposes aforesaid it shall be lawful for any vestry or district board, should they see fit, to take down the present bridges over canals within their parish or district, and to erect others in their place and stead, or to erect new bridges over such canals in such situations as they may deem beneficial, and from time to time to repair and maintain such existing or new bridges, and to indemnify the canal company or other body or persons interested in such bridges against the future repairs and maintenance of any such bridges; and the expenses incurred by any vestry or district board in any such improvements shall be paid out of the general rate authorised to be raised in their parish or district under the firstly-recited act: provided that no such extension, widening, alteration, improvement, taking down, or re-erection of any existing bridge over any such canal, or the erection of any new bridge over the same, shall be made without the previous consent in writing under their common seal of the company owning such canal, and the provisions of

25 & 26 Vict. c. 102.

the one hundred and seventh (*a*) section of the firstly-recited act shall remain in force and be applicable to this enactment: provided also, that it shall be lawful for any such vestry or district board, under the provision contained in the one hundred and eighty-third section (*b*) of the firstly-recited act, to borrow and take up at interest on the credit of all or any of the monies or rates authorised to be raised by them under that act any sums necessary for defraying the expenses of any such improvements: provided, that nothing in this act shall extend or be construed to extend to authorise the taking down or removing any bar, gate, rail, or other fence fixed for preventing any thoroughfare into or from any square, street, or way, without the consent of the proprietor of the estate or property upon which such bar, gate, rail, or other fence, square, street, or way shall be situate: provided that this enactment shall not limit the powers in force given by the act next hereinafter referred to, or by any local act.

Act as to paving and improving parts of metropolis to extend to metropolis as defined by this act.

LXXIII. The powers of improving and regulating streets and for the suppression of nuisances contained in the act of the fifty-seventh year of the reign of his Majesty king George the third, chapter twenty-nine, local and personal, intituled "An Act for better paving, improving, and regulating the Streets of the Metropolis, and removing and preventing Nuisances and Obstructions therein," shall, so far as the same is in force, and is not inconsistent with the provisions of the recited acts and this act, extend and apply to the metropolis as defined in the firstly-recited act and in this act, including any unpaved streets, and notwithstanding any exemptions therein contained (*c*).

Buildings projecting beyond general line when taken down to be set back.

LXXIV. In case any building, situated within any of the parishes, districts, or places comprised in the schedules of the firstly-recited act, which shall in any part thereof project beyond the general line of the street in which the same may be situate, or beyond the front of the building, wall, or railing on either side thereof, shall at any time be taken down to an extent exceeding one-half of such building, such half to be measured in cubic feet, or shall be destroyed by fire or other casualty, or demolished, pulled down, or removed from any other cause to the extent aforesaid, it shall be lawful for the metropolitan board of works to require the same to be set back to such a line and in such a manner for the improvement of any street as the said board shall direct: provided that the said board shall make compensation to the owner of such building for any damage and expenses which he may sustain and incur thereby: provided also, that this section shall not apply to any building in the places mentioned in schedule (C.) to the Metropolis Local Management Act (*d*) which does not abut upon any public street or place.

Mode of proceeding with regard to buildings beyond line of street.

LXXV. The one hundred and forty-third section (*e*) of the first-recited act, and the one hundred and fortieth section of the act passed in the seventh year of his Majesty king George the fourth, chapter one hundred and forty-two, intituled "An Act for consolidating the Trusts of the several Turnpike Roads in the Neighbourhood of the Metropolis North of the River Thames," are hereby repealed; and in lieu thereof be it enacted, that no building, structure, or erection shall, without the consent in writing of the metropolitan board of works, be erected beyond the general line of buildings in any street, place, or row of houses in which the same is situate in case the distance of such line of buildings from the highway does not exceed fifty feet, or within fifty feet of the highway when the distance of the line of buildings therefrom amounts to or exceeds fifty feet, notwithstanding there being gardens or vacant spaces between the line of buildings and the highway, such general line of buildings to be decided by the superintending architect to the metropolitan board of works for the time being; and in case any building, structure, or erection be erected, or be begun to be erected or raised, without such consent, or contrary to the

(*a*) P. 369. (*b*) P. 390. (*c*) See notes, pp. 57 and 53.
(*d*) P. 410. (*e*) P. 378.

terms and conditions on which the same may have been granted, it shall be lawful for the vestry of the parish or the board of works for the district in which such building or erection is situate to cause to be made complaint thereof before a justice of the peace, who shall thereupon issue a summons requiring the owner or occupier of the premises, or the builder or person engaged in any work contrary to this enactment, to appear at a time and place to be stated in the summons to answer such complaint; and if at the time and place appointed in such summons the said complaint shall be proved to the satisfaction of the justice before whom the same shall be heard, such justice shall make an order in writing on such owner or occupier, builder, or person, directing the demolition of any such building or erection, or so much thereof as may be beyond the said general line so fixed as aforesaid, within such time as such justice shall consider reasonable, and shall also make an order for the payment of the costs incurred up to the time of hearing; and in default of the building or erection complained of being demolished within the time limited by the said order, the said vestry or board shall forthwith enter the premises to which the order relates and demolish the building or erection complained of, and do whatever may be necessary to execute the said order, and may also remove the materials to a convenient place, and subsequently sell the same, as they think fit; and all expenses incurred by the said vestry or board in carrying out the said order and in disposal of the said materials may be recovered by the said vestry or board from the owner or occupier of the said premises, or the builder or person engaged in the work, either by action at law or in a summary manner before a justice of the peace, at the option of the said vestry or board, in manner provided by the two hundred and twenty-seventh section (*a*) of the firstly-recited act as to the recovery of penalties. 25 & 26 Vict. c. 102.

Conditions as to buildings beyond line of street.

LXXVI. The metropolitan board may, in giving consent for any erection beyond the regular line of the buildings in any street, annex any condition to the consent given by the board, and in case such erection shall not be made in accordance with the consent of the board, or be in any manner altered or raised without their consent, the board may enter and demolish or alter the buildings or structure or any part thereof, and recover all expenses, or may impose any penalty not exceeding forty shillings to be summarily recovered for every day during which any building or structure being a contravention of such condition shall exist after notice from the said board or any officer of the board to remedy the complaint.

Expenses of paving new streets.

LXXVII. Where any vestry or district board shall, under the powers given by the one hundred and fifth section of the firstly-recited act (*b*), have paved or be about to pave any new street, the owners of the land bounding or abutting on such street shall be liable to contribute to the expenses or estimated expenses of paving the same, as well as the owners of houses therein, provided that it shall be lawful for the vestry or district board to charge the owners of land in a less proportion than the owners of house property, should they deem it just and expedient so to do; and any such costs or expenses, including the cost of paving at the points of intersection of streets, and all other incidental costs and charges, shall be apportioned by the vestry or board, and shall be recoverable either before the work shall be commenced, or during its progress, or after its completion; and it shall be lawful for the vestry or district board at their discretion to accept payment of the amount apportioned or charged in respect of each house or premises by instalments spread over a period not exceeding twenty years, and any such amount shall be recoverable from the present or any future owner of the premises either by action at law or in a summary manner before a justice of the peace, at the option of the vestry or board.

Vestry may flag footways and levy the costs.

LXXVIII. In case any footway laid out at the passing of the firstly-recited act shall have been repaired by the vestry or any other body, but shall not have been flagged, and the vestry or district board shall have

(*a*) P. 401. (*b*) P. 369.

25 & 26 Vict. c. 102.

deemed it necessary or expedient or shall deem it necessary or expedient that the same should be flagged, and such vestry or board shall have flagged or shall flag the same, either throughout the whole breadth thereof or any part of such breadth, it shall be lawful for such vestry or board to levy the cost and expenses by a rate or rates upon the occupiers of the houses in the road, street, or part abutting on or next to the footway which shall have been so flagged, either in one sum or by equal instalments spread over a period not exceeding twenty years, as the said vestry or board may see fit: and the said vestry or board shall thenceforth keep the said flagging in good and sufficient repair.

Sums to be paid by the Duke of Bedford to parties making up roads and footways on Bedford estate, in the parish of St. Pancras, to be added to debt on that part of the parish.

LXXIX. And whereas at the time of the coming into operation of the firstly-recited act certain houses were in course of erection or about to be erected by private parties on certain lands, parts of the estate belonging to his grace the Duke of Bedford, in the parish of Saint Pancras, and the roads and footways in front of the said houses and land were partly paved by and at the expense of the said parties before the coming into operation of the firstly-recited act: and whereas the commissioners acting under the local and personal act of the session holden in the thirty-ninth and fortieth years of king George the third, chapter forty-nine, relating to the paving of the said estate, and whose powers were determined by the firstly-recited act, ought, under the power vested in them by the said act of the thirty-ninth and fortieth years of king George the third, to have executed the said works of paving, or to have defrayed the cost thereof, and payment for the same would, if the powers of the said commissioners had not been determined, have been made out of the money arising from rates or assessments to be made under the said act of king George the third, or money borrowed on the security thereof; but the arrangements respecting the said works were not such as to be binding on the vestry of the said parish under the transfer made to such vestry by the said firstly-recited act of the debts and liabilities legally charged upon or payable out of rates or assessments authorised to be made under the said act of king George the third: and whereas certain of the said parties are willing to complete the said roads and footways in consideration of the payment to them of certain sums of money, such sums to be received in satisfaction as well of past as of future expenses incurred by them in the making or paving of the said roads and footways: and whereas his grace the Duke of Bedford is willing to advance such sums of money, and it is expedient to authorise the addition of such sums to the said debt on the completion as aforesaid of the said roads and footways, and payment of the said sums to the said parties respectively: be it therefore enacted, that upon the completion of the said roads and footways to the satisfaction of the said vestry, and the production to them of the receipts in writing of the said parties respectively for the said sums from his grace the Duke of Bedford or his agent, such sums shall respectively become debts to the said duke, and be added to and form part of the debt which at the time of the coming into operation of the firstly-recited act was legally charged upon the said rates or assessments, and shall carry interest at the rate of four pounds per centum per annum, payable half-yearly on the first day of January and the first day of July in every year from the time of the receipt of such sums by the said parties or the completion of the said roads and footways as aforesaid, whichever shall last happen; and section one hundred and eighty (*a*) of the firstly-recited act shall be applicable accordingly in respect of such sums and the interest thereof in like manner as in respect of such debt as last aforesaid.

Proviso to sect. 106 of 18 & 19 Vict. c. 120, repealed. Notice of intention to

LXXX. The proviso of the one hundred and sixth section (*b*) of the firstly-recited act is hereby repealed; and in lieu thereof be it enacted, that no street not being a highway shall be repaired as in the said section mentioned, unless notice be given to the owners and rated occupiers of the houses in such street respectively; and service of any such notice may be effected by leaving the same at the several houses in such street, or where

(*a*) P. 388. (*b*) P. 389.

any of the said houses shall be unoccupied, by affixing the same upon the outer door or some conspicuous part of such houses; and provided further, that no such street shall be repaired as in the said section mentioned if within one month after notice has been given as aforesaid written notice of objection to such repair, signed by at least two thirds of the owners or rated occupiers of houses in the said street, shall be given to the vestry or district board.

repair street, not being a highway.

LXXXI. In any case of default by the owner of any court, passage, or public place, not being a thoroughfare, to comply with the requisition of any vestry or district board to perform works of paving or draining of the nature described in the one hundreth section (*a*) of the firstly-recited act, it shall be lawful for the vestry or board, should they see fit, in lieu of enforcing the penalty therein mentioned, to execute and perform such works, and recover the expenses thereof from the owner either by action at law or in a summary manner before a justice, at the option of the vestry or board.

Where owners of courts, &c., omit to drain and pave, vestry or district board may perform the works, charging expenses to owner.

LXXXII. In every case in which any company or person shall be liable under the firstly-recited act to reinstate the pavement, surface, or soil of any street under the control of any vestry or district board which may have been broken up or opened, or to repay to such vestry or board the expenses of reinstating the pavement, surface, or soil of any street, every such company or person shall be liable to reinstate the pavement, surface, or soil, or to pay the expenses of reinstating the pavement, surface, or soil of such parts of the street as shall have been so broken up or opened, as well as of the part or parts contiguous thereto which may be affected by the works of such company or person, to the reasonable satisfaction of the surveyor for the time being of the vestry or district (*b*) having control over the pavements in such parish or district.

Reinstatement of pavement broken up by works of companies, &c.

LXXXIII. The metropolitan board of works may, in order to secure the efficient maintenance of the main and general sewerage of the metropolis, from time to time make, alter, and repeal byelaws for the guidance, direction, and control of the vestries of parishes in schedule A. to the firstly-recited act (*c*), district boards, and all other persons, in relation to the levels, dimensions, construction, maintenance, ventilation, and cleansing of sewers in their respective parishes, districts, or parts, and for the other objects enumerated in the one hundred and thirty-eighth section (*d*) of the firstly-recited act, subject in all respects to the several provisions relating to byelaws contained in the two hundred and second section (*e*) of the said act; but this provision shall only extend to the city of London and the liberties thereof, so far as regards the main drainage of the metropolis (*f*).

Metropolitan board may make byelaws for guidance of vestries, &c., in construction of sewers.

LXXXIV. It shall be lawful for any vestry or district board, with the previous sanction of the metropolitan board of works, to close or stop up any street within their parish or district, during the execution of any paving, sewerage, or other works by such vestry or board in such street, and to keep the same closed and stopped up for such time as shall be necessary in that behalf, and allowed by the metropolitan board.

Vestries, &c., may stop up streets during execution of works.

LXXXV. No building, except a church or chapel, shall be erected on the side of any new street of a less width than fifty feet, which shall exceed in height the distance from the external wall or front of such building to the opposite side of such street, without the consent in writing of the metropolitan board of works; nor shall the height of any building so erected be at any time subsequently increased so as to exceed such distance without such consent; and in determining the height of such building the measurement shall be taken from the level of the centre of the street immediately opposite the building up to the parapet or eaves of such building; and every person committing any offence under this enactment shall be liable to a penalty of five pounds, and in case of a continuing offence to a further penalty

Height of buildings in certain streets.

(*a*) P. 367. (*b*) See note, p. 75. (*c*) P. 417. (*d*) P. 377.
(*e*) P. 395. (*f*) See note, p. 38.

25 & 26 Vict. c. 102.

of forty shillings for every day during which such offence shall continue after notice from the said board, to be recovered by summary proceeding.

Metropolitan board may place roadway, footpaths, &c., in different parishes or districts under management of one vestry or district board.

LXXXVI. Where in any street the roadway and footpaths or either of them are or is situate in more than one parish or district, or where the whole of the roadway and footpaths of any street are situate in one parish or district, and the whole or any part of the houses and buildings abutting on such roadway or footpaths are situate in another parish or district, in either of the said cases it shall be lawful for the metropolitan board of works, should they deem it convenient and proper so to do, to order that any such roadway and footpaths shall, for the purposes of sewerage, drainage, paving, and lighting, or any of them, be under the exclusive management of the vestry or district board of one of the said parishes or districts, and to order and direct in what proportions the costs of constructing and maintaining any new sewer or drain in such street, or of the reconstruction, reparation, or maintenance of any existing sewer or drain therein, or of the paving or making up or lighting of the roadway or footpaths thereof, and the repair and maintenance of such roadway or footpaths, shall be borne and defrayed by the vestry or board of such parish or district, and the decision of the said metropolitan board thereon shall be final and conclusive; and in case of default by any vestry or board liable under any such order to any such payment, the vestry or district board entitled thereto may sue for and recover the amount thereof from the vestry or board so making default by action at law.

Affixing names of streets by vestries and district boards.

LXXXVII. The one hundred and forty-first section (*a*) of the firstly-recited act is hereby repealed; and in lieu thereof be it enacted, that vestries and district boards shall and may, within the limits of their respective jurisdictions, from time to time cause to be painted or affixed on a conspicuous part of some house or building at or near each end, corner, entrance, or other convenient part of any street in their parish or district, the name of such street, and renew such name whenever it may be obliterated or defaced; and the metropolitan board of works may alter the name of any street to any other name which to such board may seem fit (*b*); and before any name is given to any street, notice of the intended name shall be given to the said metropolitan board, and the said board may, by notice in writing given to the person by whom notice of such intended name has been given to them, at any time within one calendar month after receipt of such notice, object to such intended name; and it shall not be lawful to set up any name to any new street in the metropolis until the expiration of one calendar month after notice thereof has been given as aforesaid to the said metropolitan board, or to set up any name objected to as aforesaid; and whenever the said metropolitan board shall, under the power hereinbefore given, have ordered or directed an alteration in the name or names of any street, or of any place or row of houses, or in any line of road, they shall transmit a copy of their order directing such alteration to the vestry or district board in whose parish or district such street, place, row of houses, or line of road shall be situate; and such vestry or district board shall thereupon cause to be painted or affixed on a conspicuous part of some house or building, to the satisfaction of the said metropolitan board, at or near each end, corner, entrance, or other convenient part of the said street, place, row of houses, or line of road, the altered name or names specified in the order of the metropolitan board, and shall perform all other necessary acts for giving effect to such order; and it shall be lawful for the said metropolitan board from time to time to order and direct that any row of houses or buildings in any street or in any line of road in the metropolis shall, for the purpose of distinguishing the same, be marked with such numbers or names as they shall deem convenient and proper for that purpose, and which they shall specify in their order in that behalf; and whenever the said metropolitan board have passed any such order as last aforesaid, they shall transmit a copy thereof to the vestry or district

Alteration of names by metropolitan board, and execution of orders by vestries and district boards.

(*a*) P. 877. (*b*) See note, p. 76.

board in whose parish or district the said street, place, row of houses, or line of road shall be situate, and it shall thereupon become the duty of such vestry or district board to perform all necessary acts and to take all requisite proceedings for carrying the order of the said metropolitan board into execution, and for that purpose they shall give notice to the owners or occupiers of the houses and buildings in such street, place, row of houses, or line of road to mark their several houses and buildings with such numbers or names as the said metropolitan board shall by their said order have ordered or directed, and to renew the numbers or names of such houses or buildings as often as they are obliterated or defaced; and if any occupier of any such house or building neglect for one week after notice from the said vestry or district board to mark such house or building with such number or name as shall be mentioned and required in the said notice, or to renew the number or name as aforesaid, he shall be liable to a penalty not exceeding forty shillings, and the said vestry or district board may cause such number or name to be so marked or renewed, and recover the expenses thereof from the owner of such house or building by a summary proceeding before a justice of the peace; and if any person wilfully destroy, pull down, obliterate, or deface the name of any street or line of road in the metropolis, or the name or number of any house or building therein, or paint, affix, or set up any name or number to any house or building contrary to this enactment, he shall for every such offence forfeit a sum not exceeding forty shillings; and it shall be lawful for the said vestry or district board to cause such name or number so painted, affixed, or set up contrary to the directions in their said notice to be obliterated or destroyed: provided always, that the powers conferred by this section upon the metropolitan board shall extend to the city of London and the liberties thereof; and all matters by this section directed and authorised to be done by vestries and district boards shall and may be done within the city of London and the liberties thereof by the commissioners of sewers of the said city and liberties.

Persons omitting to give notice required by section 76 of 18 & 19 Vict. c. 120 liable to penalty.

LXXXVIII. If any person shall, without having given the notice directed by the seventy-sixth section (*a*) of the firstly-recited act, begin to lay the foundation of any new house or building within any parish mentioned in schedule A. of the said act (*b*), or any district in schedule B. of the said act (*c*), or to make any drain for the purpose of draining either directly or indirectly into any sewer under the jurisdiction of the vestry or board of such parish or district, he shall become liable to a penalty for every such offence not exceeding five pounds, and to a continuing penalty of forty shillings for each and every day during which he shall omit to give the notice directed by the said act.

Penalty on persons wrongfully collecting ashes, &c.

LXXXIX. If any person or persons other than the person or persons employed by or contracting with the vestry or district board of any parish or district, or those employed by or under such person or persons, shall receive, carry away, or collect any dirt, dust, cinders, rubbish, ashes, or breeze from any houses, or premises, or from any street or highway in any parish or district, or any road scrapings, refuse, or mud from any street or highway within any parish or district, it shall and may be lawful for any justice of the peace, upon complaint to him made, to grant a summons, or, if such justice shall think fit, a warrant to bring before him such offender or offenders, and such justice shall examine on oath any witness or witnesses who shall appear to give information or evidence touching such offence; and any person convicted of any such offence shall forfeit to the said vestry or district board a sum not exceeding five pounds, to be recovered by a summary proceeding: provided that nothing hereinbefore contained shall be deemed to apply to the removal of the refuse of any trade, manufacture, or business, or of any building materials from any house or land by the direction of the owner or occupier of such house or land.

(*a*) P. 360. P. 407. (*c*) P. 408.

25 & 26 Vict. c. 102.

Penalties for affixing bills on lamp posts, notice boards, &c.

XC. Every person who shall affix or cause to be affixed any bill, notice, or paper against, or deface or disfigure any street post, lamp post, pump, or building vested in any board or vestry, or who shall remove, deface, or injure any notice board placed or set up by order of any board or vestry, or who shall pull down, obliterate, or deface any notice set up or affixed by order of any board or vestry, shall for every such offence forfeit a sum not exceeding forty shillings, to be recovered before a justice by a summary proceeding.

Penalty for keeping swine in improper situations.

XCI. No person within any parish mentioned in schedule A. to the firstly-recited act (*a*), or in any district mentioned in schedule B. to the said act (*b*), shall breed, feed, or keep any swine in any locality, premises, or place which may be unfit for the keeping of swine, or in which the breeding, feeding, or keeping swine may create a nuisance, or be injurious to health (*c*); and any person breeding, feeding, or keeping swine in or on any such locality, premises, or place shall be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding ten shillings for every day during which he shall continue such offence after notice from the vestry or district board to discontinue the same, and any such penalty may be recovered by a summary proceeding; and if in any proceeding under this enactment it shall be proved to the satisfaction of the justice or justices that any such locality, premises, or place are or is unfit for the keeping of swine, such justice or justices may prohibit the using thereof for that purpose for the future; and any person disobeying the order of any justice or justices in this behalf shall be liable to a penalty of ten shillings for every day during such his default.

Sect. 131 of 18 & 19 Vict. c. 120, and sect. 35 of 20 & 21 Vict. c. cxxxv. repealed.

Licences granted thereunder to continue.

XCII. The one hundred and thirty-first section (*d*) of the firstly-recited act, and the thirty-fifth section of "The Metropolitan Market Act, 1857," (twentieth and twenty-first Victoria, chapter one hundred and thirty-five (local and personal), are repealed; but all licences granted in pursuance of the provisions in the said repealed sections contained shall continue in force for the space of one year next after the day of the granting of the same respectively, and all offences heretofore committed against the provisions of the said acts, or either of them, in relation to slaughterhouses, shall be dealt with in every respect as if this act had not been passed.

Licensing cowhouses.

XCIII. From and after the first day of November one thousand eight hundred and sixty-two no place within any parish or place mentioned in the schedules to the firstly-recited act (*e*) shall be used by any person carrying on the business of a slaughterer of cattle or cowkeeper or dairyman as a slaughterhouse for the purpose of slaughtering cattle or a cowhouse or place for the keeping of cows, without a licence had for such purpose respectively from the justices of the peace assembled at a special sessions held in the division or district where such slaughterhouse, cowhouse, or place is situate, and such licence shall continue in force for the period of one year from the granting thereof, and thenceforth until the special sessions to be held next after the expiration of such period, and no fee or reward exceeding five shillings shall be taken for any such licence: and if any person carrying on such business of a slaughterer of cattle, cowkeeper, or dairyman use as a slaughterhouse or cowhouse any place within any parish or place mentioned in the schedules of the firstly-recited act which is not so licensed, every person so offending shall for each offence be liable to a penalty not exceeding five pounds, of which offence the fact that cattle have been taken into such place shall be deemed sufficient *prima facie* evidence: provided always, that before any licence for the use of any place as a slaughterhouse or cowhouse is granted as aforesaid, fourteen days' notice of the intention to apply for such licence shall be given to the vestry or district board of the parish or district in which any such place is situate, to the intent that such vestry or district board, if they think fit,

(*a*) P. 407. (*b*) P. 408. (*c*) See notes, pp. 57 and 58. (*d*) P. 375. (*e*) P. 407.

may show cause against the granting of any such licence, and also seven days' notice previous to such special sessions being held of the intention to apply for such licence shall be given to the clerk of the justices for such division: provided, that nothing in this act contained shall extend to slaughterhouses erected or to be erected in the metropolitan cattle market under the authority of the Metropolitan Market Act, 1851, or the Metropolitan Market Act, 1857.

Month's notice to be given of applying for licence for keeping slaughter-house.

XCIV. Before any licence for the keeping or using of any house or place within the metropolitan police district as a licensed slaughtering house or place for the purpose of slaughtering or killing horses or other cattle not killed for butchers' meat shall be granted by any quarter sessions of the peace under the provisions of the act of the session holden in the twenty-sixth year of the reign of his Majesty king George the third, chapter seventy-one, or of the act of the session holden in the seventh and eighth years of her present Majesty, chapter eighty-seven, or any act amending either of the said acts, one month's previous notice of the intention to apply for such licence shall be given to the vestry or district board of the parish or district in which such house or place is situate, to the intent that such vestry or district board, if they think fit, may show cause against the grant of such licence.

Vestries and district boards to contract for removal of manure from stables and cow-houses.

XCV. It shall be lawful for every vestry and district board, if they in their discretion think fit, to appoint and employ a sufficient number of persons, or to contract with any company or persons, for collecting and removing the manure and refuse straw from such stables and cowhouses within their parish or district, the occupiers of which may signify their consent in writing to such removal; provided that such consent shall not be withdrawn or revoked without one month's previous notice to the vestry or district board, and that no person shall be hereby relieved from any penalty or penalties to which they may be subject for placing dung or manure upon the footways or carriageways of any parish or district, or for having any accumulation or deposit of manure so as to be a nuisance or injurious to health.

Vestry or district board may require payment of costs or expenses from owner or occupier, and occupier paying to deduct from rent.

XCVI. The two hundred and seventeenth, two hundred and eighteenth, and two hundred and nineteenth sections (*a*) of the firstly-recited act are hereby repealed; and in lieu thereof be it enacted, that it shall be lawful for any vestry or district board, at their discretion, to require the payment of any costs or expenses which the owner of any premises may be liable to pay under the said recited act or this act either from the owner or from any person who then or at any time thereafter occupies such premises, and such owner or occupier shall be liable to pay the same, and the same shall be recovered in manner authorised by the recited act and this act; and the owner shall allow such occupier to deduct the sums of money which he so pays out of the rent from time to time becoming due in respect of the said premises as if the same had been actually paid to such owner as part of such rent: provided always, that no such occupier shall be required to pay any further sum than the amount of rent for the time being due from him, or which, after such demand of such costs or expenses from such occupier, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such occupier, unless he refuse, on application being made to him for that purpose by or on behalf of the vestry or district board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable, but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier: provided also, that nothing herein contained shall be taken to affect any contract made or to be made between any owner and occupier of any house, building, or other property whereof it is or may be agreed that the occupier shall pay and discharge all rates, dues, and sums of money payable in respect of such house, building,

Agreements between landlord and tenant not to be affected.

(*a*) P. 399.

25 & 26 Vict. c. 102.

or other property, or to affect any contract whatsoever between landlord and tenant.

Deduction by owner paying rent where amount of expenses deducted from rent paid to him.

XCVII. If the owner or landlord of any premises from whose rent any amount shall be deducted in respect of any costs, charges, or expenses payable under the firstly-recited act or this act shall hold the premises in respect of which the amount of such costs, charges, or expenses shall be paid at a rent not less than the rackrent, he shall be entitled to deduct the whole amount paid by him on account of such costs, charges, or expenses from the rent payable by him to his superior landlord; and if he holds at a rent less than the rackrent, he shall be entitled to deduct from the rent so payable by him a sum bearing the same proportion to the amount so paid by him on account of such costs, charges, or expenses as his rent shall bear to the rackrent; and if the owner or landlord from whose rent any deduction be made under the provision last aforesaid be himself liable to the payment of rent for the premises in respect of which the deduction shall be made, and hold such premises for a term of which less than twenty-one years shall be unexpired, but not otherwise, he may deduct from the rent so payable by him a sum bearing the same proportion to the sum deducted from the rent payable to him as the rent payable by him shall bear to the rent payable to him, and so on in succession with respect to every landlord of the same premises both receiving and liable to pay rent in respect thereof, and holding the same for a term of which less than twenty-one years shall be unexpired as aforesaid: provided always, that nothing herein contained shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him: provided also, that nothing herein contained shall be taken to affect any contract made or to be made between any owner or occupier of any house, building, or other property whereof it is or may be agreed that the occupier shall pay and discharge all rates, dues, and sums of money payable in respect of such house, building, or other property, or to affect any contract whatsoever between landlord and tenant.

Roads, &c., laid out as streets to be of full width of forty feet for carriage traffic, and twenty feet for foot traffic.

XCVIII. No existing road, passage, or way being of a less width than forty feet shall be hereafter formed or laid out for building as a street for the purposes of carriage traffic, unless such road, passage, or way be widened to the full width of forty feet, the measurement of the width of such street to be taken half on either side from the centre or crown of the roadway to the external wall or front of the houses or buildings erected or intended to be erected on each side thereof; but where forecourts or other spaces are intended to be left in front of the houses or buildings, then the width shall be measured up to the fence or boundary dividing or intended to divide such forecourts or spaces from the public way, or for the purpose of foot traffic only, unless such road, passage, or way be widened to the full width of twenty feet, measured as aforesaid, or unless such streets respectively shall be open at both ends, from the ground upwards: and any road, passage, or way hereafter to be formed or laid out for either of the purposes aforesaid shall be deemed to be a new street, and become subject to all the provisions of the recited acts and this act, and to the provisions and penalties of and under any byelaws made or to be made in pursuance thereof in relation to sewerage, drainage, or paving, and to width, construction, surface, inclination, and other requirements and particulars.

Metropolitan board may permit formation of streets of less width, &c.

XCIX. Provided that it shall be lawful for the metropolitan board of works to permit the formation of any such street of less width than herein-before provided, or with one opening only, should they under any special circumstances deem it equitable and expedient so to do.

Power to vestries, &c., to borrow

C. It shall be lawful for every vestry and district board mentioned in clause one hundred and eighty-three of the first-recited act (a) to exercise the power to borrow monies therein mentioned, with the sanction of the

(a) See 18 & 19 Vict. c. 120, p. 390.

metropolitan board of works granted under their common seal, for the purpose of enabling such vestry or district board to make, extend, widen, alter, or improve any street, road, or way, for facilitating the passage and traffic within the parish or district for which such vestry or district board is appointed, or for the purpose of contributing to and of joining with the metropolitan board or with any other board or persons in any such improvement. 25 & 26 Vict. c. 102. monies for the improvement of streets.

CI. If any vestry, commissioners, or other body in whom any duties or powers in relation to the appointment of inspectors or examiners of weights and measures are now vested under any local act, charter, or otherwise, desire that such duties or powers should cease, and that inspectors of weights and measures appointed or to be appointed at general or quarter sessions, pursuant to the provisions of the act of the session holden in the fifth and sixth years of king William the fourth, chapter sixty-three, and of any act amending the same, should act in and for the parts to which such local act extends, so far as regards their parish or district, and a resolution to that effect be passed by a majority, at a meeting of the vestry or board specially convened for the purpose of considering the question of determining such duties or powers, of which not less than fourteen days' notice shall have been given, notice of such resolution shall be given by the clerk of such vestry or board to the clerk of the peace for the county in which their parish or district is situate; and such notice shall be laid by such clerk of the peace before the next court of general or quarter sessions of the peace for such county; and from and after the receipt of such resolution by such justices the appointment, and all powers of appointment, of any inspector or examiner appointed under any such local act shall cease so far as regards such parish or district, but not so as to affect any pending proceedings for penalties or otherwise: and all the provisions of the said act of the session holden in the fifth and sixth years of king William the fourth, chapter sixty-three, and of any act amending the same, shall apply to such parish or district as if such local act were not in force therein. Any vestry or district board may put an end to any powers of appointment of inspectors of weights and measures existing under any local act in their parish or district.

CII. Every penalty or forfeiture imposed by this act, and made recoverable by a summary proceeding, may be recovered before any justice of the peace in manner provided by the act of the session holden in the eleventh and twelfth years of her Majesty, chapter forty-three (*a*). provided by 11 & 12 Vict. c. 43. Penalties may be recovered in manner

CIII. The expenses incurred by the metropolitan board of works in applying for and passing this act, and preparatory or incident thereto, shall be and are hereby included among the general expenses of the said board in the execution of the firstly-recited act, and may be defrayed accordingly; and the expenses incurred by any vestry or district board in relation to this act shall be and are hereby included among the other expenses incurred by that vestry or district board in the execution of the firstly-recited act, and may be defrayed accordingly. Expenses of obtaining this act to be included among general expenses of executing acts.

CIV. The provision in the two hundred and twenty-seventh section of the firstly-recited act (*b*) for the recovery of penalties and forfeitures imposed by the said act is hereby extended to any damages, costs, or expenses payable or recoverable under the said recited acts or this act; and any such damages, costs, or expenses, the recovery whereof is not otherwise provided for, may be recovered by summary proceedings in manner directed by the said section. Provision as to penalties under 227th section of 18 & 19 Vict. c. 120, extended to damages, &c.

CV. The two hundred and thirty-fourth section of the firstly-recited act (*c*) is hereby repealed; and in lieu thereof be it enacted, that all penalties or forfeitures payable or recoverable under the firstly-recited act or this act, and all penalties or forfeitures recovered by any vestry or district board acting as the local authority for the execution within their respective parish or district of "The Nuisances Removal Act, for England, 1855" (*d*), shall go and be paid in manner hereinafter mentioned, anything Application of penalties.

(*a*) See note, p. 55. (*b*) See 18 & 19 Vict. c. 120, p. 401. (*c*) *Ibid.* p. 402.
(*d*) See this act, p. 419.

25 & 26 Vict. c. 102.

contained in an act made and passed in the session holden in the second and third years of the reign of her present Majesty, chapter seventy-one, or in any other act or acts to the contrary notwithstanding; that is to say, one half shall go to the informer, and the remainder shall go to the vestry or district board of the parish or district in which the offence was committed, or to the metropolitan board of works, in case the injury shall have been sustained by or the offence committed in respect of that board; or if such vestry or district board or the metropolitan board of works be the informers, then the whole of the penalty recovered shall go to them respectively, and all sums which shall go to or be recovered by any board or vestry on account of any penalty or forfeiture shall be paid to their treasurer, or into such bank to their account as they may direct, and shall be applicable towards the general expenses of such board or vestry; provided that in every case where any board or vestry are liable to any penalty or forfeiture, the whole of such penalty or forfeiture shall go to the informer.

Notice of action, &c.

CVI. No writ or process shall be sued out against or served upon, and no proceeding shall be instituted against the metropolitan board of works, or any vestry or district board, or their clerk, or any clerks, surveyor, contractor, officer, or person whomsoever, acting under their or any of their directions, for anything done or intended to be done under the powers of such board or vestry under the said acts or this act, until the expiration of one calendar month next after notice in writing shall have been served upon such board or vestry, or where the action or proceeding shall be against such officer or other person acting under their or any of their directions shall have been delivered to him or left at his office or place of abode, stating the cause of action or grounds of the proceeding or demand, and the name and place of abode of the intended plaintiff or claimant and of his attorney or agent in the cause or proceeding; and upon the trial of any action the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so served or delivered, and unless such notice be proved the jury shall find for the defendant; and every such action and proceeding shall be brought or commenced within six months next after the accrual of the cause of action or ground of claim or demand, and not afterwards, and every such action shall be laid and tried in the county or place where the cause of action accrued, and not elsewhere; and the defendant shall in any such action be at liberty to plead the general issue, and give the said recited acts and this act and all special matter in evidence thereunder; and it shall be lawful for the board or vestry, or any person to whom such notice is given as aforesaid, to tender amends to the plaintiff, his attorney or agent, at any time within one calendar month after service of such notice, and in case the same be not accepted to plead such tender in bar, and (by leave of the court) with the general issue or other plea or pleas; and if upon issue joined upon any plea pleaded to the whole action the jury find generally for the defendant, or if the plaintiff be nonsuited or discontinue, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case amends have not been tendered as aforesaid, or in case the amends tendered be insufficient, it shall be lawful for the defendant, by leave of the court, at any time before trial, to pay into court under plea such sum of money as he may think proper, and (by the like leave) to plead the general issue or other plea or pleas, any rule of court or practice to the contrary notwitstanding.

Limitation.

Venue.

General issue.

Tender of amends.

Penalties to be proceeded for within six months.

CVII. The two hundred and thirty-third section of the firstly-recited act (*a*) is hereby repealed; and in lieu thereof be it enacted, that no person shall be liable for the payment of any penalty or forfeiture under the recited acts or this act, or any bylaw made by virtue thereof, for any offence made cognizable before a justice, unless the complaint respecting

(*a*) Sec 18 & 19 Vict. c. 120, p. 402.

such offence have been made before such justice within six months next after the commission or discovery of such offence. 25 & 26 Vict. c. 102.

CVIII. Except as herein specially provided, nothing herein contained shall in any way prejudice or affect any act, matter, or thing made, done, or commenced prior to the passing of this act. Act not to apply to things done before its passing, except &c.

CIX. Nothing in this act contained shall be held to make the several places named in schedule (C.) of the firstly-recited act (*a*) liable to any payment or assessment to which they would not have been liable if this act had not been passed. No further liability to attach to places named in schedule C. of 18 & 19 Vict. c. 120.

CX. The said recited acts and this act shall be construed together as one act. Acts to be construed as one act.

CXI. The recited acts may be respectively cited for all purposes as "The Metropolis Management Act, 1855," "The Metropolis Management Amendment Act, 1856," and "The Metropolis Management Amendment Act, 1858;" and this act may be cited for all purposes as "The Metropolis Management Amendment Act, 1862." Short titles.

CXII. In the construction of the recited acts and this act the term "metropolis" shall be deemed to include the city of London and the parishes and places mentioned in the schedules (*b*) (A.), (B.), and (C.) to the firstly-recited act; the word "drain" shall be deemed to apply to and include the subject matters specified in the two hundred and fiftieth section (*c*) of the firstly-recited act, and also any drain for draining a group or block of houses by a combined operation, laid or constructed before the first day of January one thousand eight hundred and fifty-six, pursuant to the order or direction or with the sanction or approval of the metropolitan commissioners of sewers; the expression "water company" shall mean and include any of the companies enumerated in the twenty-ninth section of the act of the session of the fifteenth and sixteenth years of the reign of Queen Victoria, chapter eighty-four (*d*), for the making better provision respecting the supply of water to the metropolis, and also any other company, board, or commission, association, person, or partnership, corporate or unincorporate, for the time being supplying the metropolis or any part thereof with water for domestic use; the word "cattle" shall include sheep, lambs, and swine; the word "street" shall be deemed to apply to and include the subject matters specified in the two hundred and fiftieth section (*c*) of the firstly-recited act, and also any mews and a part thereof; the expression "new street" shall apply to and include all streets hereafter to be formed or laid out, and a part of any such street, and also all streets, the maintenance of the paving and roadway whereof had not, previously to the passing of this act, been taken into charge and assumed by the commissioners, trustees, surveyors, or other authorities having control of the pavements or highways in the parish or place in which such streets are situate, and a part of any such street, and also all streets partly formed or laid out; the word "pave" shall apply to and include the formation of the roadway or footway of any street; the word "clerk" shall include any officer called or to be called "secretary;" the word "surveyor" shall include any officer called or to be called "engineer;" the word "print" shall apply to and include every mode of taking impressions, whether by letterpress, stereotype, lithography, or otherwise. Interpretation of terms.

CXIII. Whereas an act was passed in the session of parliament holden in the twentieth and twenty-first years of her Majesty, "to enable the Metropolitan Board of Works to form a Park for the Northern Suburbs of the Metropolis, to be called Finsbury Park:" and whereas it is expedient to continue the said act for such period as herein mentioned: be it therefore enacted, that the said act shall be continued in force until the seventeenth day of August one thousand eight hundred and sixty-three, in like manner as if the time so limited had been the time limited by the said act of the twentieth and twenty-first years of Victoria, chapter one hundred and twenty. Finsbury Park Act continued till 1863.

(*a*) P. 410. (*b*) P. 407. (*c*) P. 406. (*d*) See this act, p. 325.

25 & 26 Vict. c. 102.

Amendment of 18 & 19 Vict. c. 120, s. 103.

CXIV. There shall be repealed so much of the one hundred and ninety-third section (a) of an act passed in the session holden in the eighteenth and nineteenth years of the reign of her present Majesty, chapter one hundred and twenty, intituled "An Act for the better Local Management of the Metropolis," as provides that the auditor of the accounts of the metropolitan board shall be paid by such board not exceeding five guineas for every day he is fully employed on such audit, and all expenses he is put to in the auditing of such accounts; provided always, that such payment shall not exceed fifty guineas: and in lieu thereof, be it enacted, that the auditor of the accounts of the metropolitan board shall be paid by such board a sum not exceeding two guineas for every day that he is fully employed on such audit, and all expenses that he is put to in the auditing of such accounts, provided that such payments do not in the whole exceed one hundred guineas.

Certain powers under local act 10 G. 4, c. 68, respecting parish of St. Paul, Covent Garden, transferred.

CXV. From and after the passing of this act all duties, powers, and authorities under the local act of the tenth year of king George the fourth, chapter sixty eight, now remaining vested in the committee of management of the affairs of the parish of St. Paul, Covent Garden, shall cease to be so vested, and shall become vested in, and be performed and exercised by the vestry of such parish, elected under the act of the eighteenth and nineteenth years of Victoria, chapter one hundred and twenty, and that the said committee shall cease and be determined, and no new appointment or election of such committee shall take place.

Saving rights of the crown and the Duchy of Lancaster.

CXVI. It shall not be lawful for the metropolitan board of works, or for any vestry or district board, to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights, of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most excellent Majesty in right of her crown, or in right of the Duchy of Lancaster, without the consent in writing of the commissioners for the time being of her Majesty's woods, forests, and land revenues, or one of them, on behalf of her Majesty, first had and obtained for that purpose, which consent such commissioners are hereby respectively authorised to give, or without the consent in like manner of the chancellor of the said Duchy; and nothing herein contained shall divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs, or successors, in right of her crown or in right of her Duchy of Lancaster: provided always, that nothing herein contained shall in any way lessen, alter, or in any manner prejudice or affect the rights, powers, and authorities of the metropolitan board of works relating to the main drainage of the metropolis, but such rights, powers, and authorities may be put in force as if this section had not been passed.

Saving rights of the crown in respect of the Duchy of Cornwall.

CXVII. It shall not be lawful for the metropolitan board of works, or for any vestry or district board, to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most excellent Majesty in right of her Duchy of Cornwall, without the consent in writing of two or more of the principal officers of the Duchy, which consent such principal officers of the Duchy are hereby authorised to give; and nothing herein contained shall divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs, or successors, in respect of the said Duchy: provided always, that nothing herein contained shall in any way lessen, alter, or in any manner prejudice or affect the rights, powers, and authorities of the metropolitan board of works relating to the main drainage of the metropolis, but such rights, powers, and authorities may be put in force as if this section had not been passed.

(a) P. 398.

## SCHEDULES to which this Act refers.

### SCHEDULE A.

DEBT OF CERTAIN SECURITIES AND LIABILITIES OF METROPOLITAN COMMISSIONERS OF SEWERS.

| e of Lender, Party holding y, or for whose Life Annuity granted. | Amount of Loan, or Value of Annuity. | | | Date of Loan or Grant of Annuity. |
|---|---|---|---|---|
| | £ | s. | d. | |
| Newberry George | 3,000 | 0 | 0 | 11th April, 1823. |
| Robinson | 2,000 | 0 | 0 | 12th March, 1824. |
| Hart (Executors of) | 1,000 | 0 | 0 | ,, |
| Kershaw | 1,000 | 0 | 0 | ,, |
| L. D. Kershaw | 1,000 | 0 | 0 | ,, |
| I Kershaw | 2,000 | 0 | 0 | 4th June, 1824. |
| Meller (Executors of) | 3,000 | 0 | 0 | 12th December, 1828. |
| o. (do) | 9,500 | 0 | 0 | 13th January, 1832. |
| ks (Executors of) | 5,000 | 0 | 0 | 8th March, 1833. |
| Iobbs | 2,000 | 0 | 0 | 27th May, 1840. |
| Hall | 1,500 | 0 | 0 | 10th Sept., 1847. |
| Balcombe (Trustees of) | 1,500 | 0 | 0 | ,, |
| Green | 1,000 | 0 | 0 | ,, |
| Courthope Peache | 10,000 | 0 | 0 | 2nd May, 1851. |
| Exchange Assurance Cor-tion | 20,000 | 0 | 0 | 17th Sept., 1852. |
| Life Assurance Company | 228,800 | 0 | 0 | Between 1st March, 1854, and 1st Feb., 1855. |
| ANNUITIES. | | | | |
| mated value, 1st January, 1856.) | | | | |
| tte Swabey | 210 | 10 | 0 | 19th April, 1816. |
| m Edwards | 961 | 18 | 7 | 12th April, 1822. |
| Dorothy Woodifield | 85 | 19 | 0 | 10th October, 1823. |
| Turner | 1,039 | 11 | 4 | ,, |
| Dorothy Hunt | 217 | 13 | 11 | 27th August, 1824. |
| Woodroffe | 259 | 13 | 11 | 22nd October, 1824. |
| na Jeremy | 544 | 3 | 8 | 28th July, 1826. |
| ret Symons | 70 | 4 | 2 | |
| TOTAL £ | 295,689 | 14 | 7 | |

### SCHEDULE B.

APPORTIONMENT OF DEBT ON LOAN FROM THE CLERGY MUTUAL ASSURANCE SOCIETY.

| Parishes and Places. | Amount charged on each Parish or Part. | | | | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| Marylebone | | | | 10,563 | 0 | 3 |
| Pancras | | | | 7,466 | 4 | 7 |
| eth | | | | 5,181 | 16 | 6 |
| George Hanover-square | | | | 9,449 | 0 | 3 |

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| Parishes and Places. | Amount charged on each Parish or Part. | | | | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| Saint Mary Islington | . | . | . | 4,618 | 18 | 9 |
| Saint Leonard Shoreditch | . | . | . | 2,658 | 15 | 6 |
| Paddington | . | . | . | 4,544 | 19 | 0 |
| Saint Matthew Bethnal Green | . | . | . | 1,103 | 13 | 8 |
| Saint Mary Newington, Surrey | . | . | . | 2,008 | 4 | 8 |
| Camberwell | . | . | . | 2,219 | 12 | 6 |
| Saint James Westminster | . | . | . | 4,348 | 6 | 3 |
| Saint James and Saint John Clerkenwell | . | . | . | 2,274 | 5 | 0 |
| Chelsea | . | . | . | 2,290 | 7 | 2 |
| Saint Mary Abbotts Kensington | . | . | . | 2,560 | 17 | 2 |
| Saint Luke Middlesex | . | . | . | 1,726 | 0 | 6 |
| Saint George the Martyr Southwark | . | . | . | 1,317 | 12 | 3 |
| Bermondsey | . | . | . | 1,391 | 12 | 0 |
| Saint George-in-the-East | . | . | . | 1,754 | 11 | 5 |
| Saint Martin-in-the-Fields | . | . | . | 2,642 | 8 | 3 |
| Hamlet of Mile End Old Town | . | . | . | 1,589 | 2 | 6 |
| Rotherhithe | . | . | . | 676 | 9 | 2 |
| Saint John Hampstead | . | . | . | 814 | 2 | 4 |
| Whitechapel District. | | | | | | |
| Saint Mary Whitechapel | 1,139 | 14 | 1 | | | |
| Christchurch Spitalfields | 370 | 13 | 2 | | | |
| Saint Botolph Without Aldgate | 488 | 1 | 11 | | | |
| Holy Trinity Minories | 63 | 0 | 4 | | | |
| Precinct of St. Katharine | 169 | 2 | 3 | | | |
| Hamlet of Mile End New Town | 149 | 13 | 4 | | | |
| Liberty of Norton Folgate | 51 | 18 | 8 | | | |
| Old Artillery Ground | 42 | 8 | 11 | | | |
| District of the Tower | 28 | 17 | 6 | | | |
| | | | | 2,533 | 10 | 2 |
| Westminster District. | | | | | | |
| Saint Margaret and Saint John the Evangelist | . | . | . | 2,695 | 5 | 2 |
| Greenwich District. | | | | | | |
| Saint Paul Deptford, including Hatcham | 1,048 | 3 | 10 | | | |
| Saint Nicholas Deptford | 211 | 7 | 10 | | | |
| Greenwich | 1,268 | 7 | 2 | | | |
| | | | | 2,527 | 18 | 10 |
| Wandsworth District. | | | | | | |
| Clapham | 871 | 19 | 11 | | | |
| Tooting Graveney | 103 | 15 | 8 | | | |
| Streatham | 514 | 14 | 10 | | | |
| Saint Mary Battersea, excluding Penge | 836 | 1 | 2 | | | |
| Wandsworth | 404 | 0 | 2 | | | |
| Putney, including Roehampton | 369 | 19 | 9 | | | |
| | | | | 3,160 | 11 | 6 |
| Hackney District. | | | | | | |
| Hackney | 2,451 | 0 | 4 | | | |
| Saint Mary Stoke Newington | 283 | 7 | 10 | | | |
| | | | | 2,734 | 8 | 2 |
| Saint Giles District. | | | | | | |
| Saint Giles-in-the-Fields and Saint George Bloomsbury | . | . | . | 2,772 | 2 | 5 |

| Parishes and Places. | Amount charged on each Parish or Part. £ s. d. | £ s. d. |
|---|---|---|
| olborn District. | | |
| Saint Andrew Holborn above Bars, and Saint George the Martyr | 1,395 3 10 | |
| Saint Sepulchre in the County of Middlesex | 187 11 10 | |
| Saffron-hill, &c. | 294 11 4 | |
| Liberty of Glasshouse-yard | 38 9 11 | |
| | | 1,915 16 11 |
| rand District. | | |
| Saint Anne Soho | 958 7 5 | |
| Saint Paul Covent Garden | 458 17 10 | |
| Precinct of the Savoy | 90 9 6 | |
| Saint Mary le-Strand | 157 1 4 | |
| Saint Clement Danes | 897 15 9 | |
| Liberty of the Rolls | 169 18 4 | |
| | | 2,732 10 2 |
| ılham District. | | |
| Saint Peter and Saint Paul Hammersmith | 713 9 0 | |
| Fulham | 501 19 6 | |
| | | 1,215 8 6 |
| mehouse District. | | |
| Saint Anne Limehouse | 586 7 3 | |
| Saint John Wapping | 373 11 6 | |
| Saint Paul Shadwell | 365 12 7 | |
| Hamlet of Ratcliffe | 463 14 3 | |
| | | 1,749 5 7 |
| oplar District. | | |
| All Saints Poplar | 1,637 9 10 | |
| Saint Mary Stratford-le-Bow | 286 1 2 | |
| Saint Leonard Bromley | 383 6 9 | |
| | | 2,306 17 9 |
| aint Saviour's District. | | |
| Christchurch | 671 3 5 | |
| Saint Saviour (including the Liberty of the Clink) | 1,030 10 10 | |
| | | 1,701 14 3 |
| lumstead District. | | |
| Charlton next Woolwich | 311 16 1 | |
| Plumstead | 300 9 11 | |
| Eltham | 157 9 9 | |
| Lee | 248 7 9 | |
| Kidbrooke | 90 18 0 | |
| | | 1,109 1 6 |
| ewisham District. | | |
| Lewisham, including Sydenham | 1,149 19 7 | |
| Hamlet of Penge | 309 13 9 | |
| | | 1,459 13 4 |
| aint Olave District. | | |
| Saint Olave | 536 6 1 | |
| Saint Thomas Southwark | 47 12 6 | |
| Saint John Horsleydown | 438 12 10 | |
| | | 1,022 11 5 |
| he Charter House | . . . | 20 11 10 |
| ray's Inn | . . . | 142 13 10 |
| TOTAL | | 105,000 0 0 |

25 & 26 VICT. c. 102.

## SCHEDULE C.

*Form of Assessment.*

RESOLVED, that this board do and they do hereby ascertain the sum which ought, in their judgment, to be charged upon the several parts of the metropolis, and other parts charged with mortgages, debts, and liabilities at the expiration of the act of the 11th and 12th years of her Majesty, chapter 112, for defraying the expenses of the said board, in the execution of the Metropolis Local Management Act, 1855, for the year ending 18 , under and pursuant to the said act and the acts for amending the same; and ordered that such sums be assessed as hereinafter specified, and they are hereby assessed upon such parts respectively, and that precepts under the common seal of the board do issue for obtaining payment thereof:—

| Parishes, Districts, or Parts. | Sums assessed. |
|---|---|
| [*Here insert the parishes, districts, parts of parishes, &c., as for instance,*] | |
| City of London, the whole . . . | |
| Parish of , the whole . . | |
| That part of the parish included in former district [*or* level *or* division] . . . . . | |
| That part of the parish included in former district [*or* level *or* division] . . . . . | |
| [*And so on, adding the names of the other parishes, districts, parts of parishes, &c., on which sums are assessed, and the sums assessed.*] | |

*Form of Precept demanding one Sum assessed upon the whole of a Parish or other Place.*

To the vestry [*or other body or person charged with payment of the amount*] of the parish [*or other place, describing it by name*].

BY virtue of an act passed in the nineteenth year of the reign of Queen Victoria, intituled, "An Act for the better Local Management of the Metropolis,"

THE metropolitan board of works do issue this their precept under their common seal to you the said vestry [*or* chamberlain, *&c.*], and do hereby require you to pay to on or before the day of now next ensuing, the sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon the said parish [*or* city, *&c.*], for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 ascertain and assess upon the said parish [*or* city, *&c.*], for such purpose, under and in pursuance of the provisions of the said act and the acts for amending the same in that behalf.

Dated this day of 18 .

L. S.

*Form of Precept demanding an Amount made up of a Sum assessed upon the whole of a Parish or other Place, and of a Sum or Sums assessed upon a Part or Parts of such Parish or Place.*

To the vestry [*or other body or person charged with payment of the amount*] of the parish [*or other place, describing it by name*].

By virtue of an act passed in the nineteenth year of the reign of Queen Victoria, intituled "An Act for the better Local Management of the Metropolis,"

The metropolitan board of works do issue this their precept under their common seal to you the said vestry, and do hereby require you to pay to on or before the day of now next ensuing, the sum of pounds shillings and pence, the sum of pounds shillings and pence, part of the said sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon the whole of the said parish for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 , ascertain and assess upon the said parish for such purpose, under and in pursuance of the provisions of the said act and the acts for amending the same in that behalf.

*The sum of pounds shillings and pence, other part of the said sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon that part of the said parish of which was at and immediately before the determination and expiration of the Metropolitan Sewers Act, 1848, included in the sewerage district, for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 , ascertain and assess upon the said part of the said parish for such purpose, under and in pursuance of the provisions of the said act and the acts for amending the same in that behalf. [*Where distinct sums are assessed upon other parts of the same parish, that portion of the preceding form commencing at* * *may be repeated in each case.*]

Dated this day of 18 .

L. S.

*Form of Precept to a District Board of Works, demanding a Sum assessed upon the whole of a Parish within the District, or an Amount consisting of a Sum assessed upon the whole Parish, and a Sum or Sums assessed upon a Part or Parts of the same Parish.*

To the board of works for the district.

By virtue of an act passed in the nineteenth year of the reign of Queen Victoria, intituled "An Act for the better Local Management of the Metropolis,"

The metropolitan board of works do issue this their precept under their common seal to you the said district board of works for the said district, and do hereby require you to pay to on or before the day of now next ensuing, * the sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon the parish of within the said district, for defraying the expenses of the said board in the execution of the said act and which they the said board did, on the day of 18 , ascertain and assess upon the said parish for such purpose, under

25 & 26 Vict. c. 102.

and in pursuance of the provisions of the said act and the acts for amending the same in that behalf.

*[*Where the amount demanded is made up of a sum assessed upon a whole parish within the district, and also of a sum or sums assessed on a part or parts of the same parish, the form may be as follows:—*

The sum of pounds shillings and pence, part of the said sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon the whole of the parish of within the said district, for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 , ascertain and assess upon the said parish for such purpose, under and in pursuance of the provisions of the said act and the acts for amending the same in that behalf.

The sum of pounds shillings and pence, other part of the said sum of pounds shillings and pence, being the sum which ought, in the judgment of the said board, to be charged upon that part of the said parish of within the said district which was at and immediately before the determination and expiration of the Metropolitan Sewers Act, 1848, included in the separate sewerage district, for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 , ascertain and assess upon the said part of the said parish for such purpose, under and in pursuance of the provisions of the said act and the act for amending the same in that behalf.]

Dated this day of 18 .

L. S.

*Form of Precept to a District Board of Works, where Sums are assessed upon several Parishes and Parts of Parishes within the District.*

To the board of works for the district.

By virtue of an act passed in the nineteenth year of the reign of Queen Victoria, intituled "An Act for the better Local Management of the Metropolis,"

The metropolitan board of works do issue this their precept under their common seal to you the said board of works for the said district, and do hereby require you to pay to the on or before the day of now next ensuing, the sum of pounds shillings and pence, being the amount of the several and respective sums of money hereunder set down and expressed opposite to and against the several parishes and parts of parishes within your said district hereinafter mentioned, which said several sums ought, in the judgment of the said board, to be charged upon the said parishes and parts of parishes respectively for defraying the expenses of the said board in the execution of the said act, and which they the said board did, on the day of 18 , ascertain and assess upon the said several parishes and parts of parishes for such purpose, under and in pursuance of the provisions of the said act and the acts for amending the same in that behalf:

| Names of Parishes, Parts of Parishes, &c. | £ | s. | d. | £ | s. | d. |
|---|---|---|---|---|---|---|
| **The** parish [*or* hamlet, precinct, *&c.*] of . The whole of the parish. **That** part of the said parish [*or* hamlet, precinct, *&c.*, of ], within the said district, which was at and immediately before the determination and expiration of the Metropolitan Sewers Act, 1848, included in the sewerage district. [*And so on in the case of each parish, part of a parish, &c.*] | | | | | | |

Dated this day of 18 .

L. S.

## 26 Vict. c. 13.

*An Act for the Protection of certain Garden or Ornamental Grounds in Cities and Boroughs* (*a*). [4th May, 1863.]

26 Vict. c. 13.

Whereas it is expedient to make provision for the better protection and charge of enclosed garden or ornamental grounds which have been set apart for the use of the inhabitants of any public square, crescent, circus, street, or other public place surrounding or adjoining such gardens or grounds in any city or borough: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Gardens in certain squares, &c., may be freed from neglect, encroachments, &c., and vested in the metropolitan board of works or other corporate authority;

I. Where in any city or borough any enclosed garden or ornamental ground has been set apart otherwise than by the revocable permission of the owner thereof in any public square, crescent, circus, street, or other public place, for the use or enjoyment of the inhabitants thereof, and where the trustees, commissioners, or other body appointed for the care of the same have neglected to keep it in proper order, or where such garden or ground has not been vested in or placed under the management of any trustees, commissioners, or other body for the care of the same, and from the want of such care, or from any other cause, has been neglected, the metropolitan board of works, where the same is in any place under their jurisdiction, except the city of London (where the provisions of this act shall be carried into effect by the corporation of the said city), and the corporate authorities in any other city or borough, shall take charge of the same, putting up a notice or notices to that effect in such garden or ornamental ground, and if after due inquiry the person entitled to any estate of freehold in the same cannot be found, or if it shall be vested in any person by whom it is held, subject to any condition or reservation for keeping the same as and for a garden or pleasure ground, or that the same shall not be built upon, but not otherwise, shall cause any buildings

(*a*) See "Public Pleasure Grounds," p. 66.

26 VICT. c. 13.

or other encroachment made therein within the period of twenty years before the passing of this act to be removed, and (if requested by a majority of two-thirds of the owners and of the occupiers of the houses surrounding the same) shall vest such garden or ornamental ground in a committee consisting of not more than nine nor fewer than three of the rated inhabitants of such houses to be chosen annually by such inhabitants, in order that the same may be kept as a garden or ornamental ground for the use of such inhabitants; and the vestry or board of any and every parish or district within which the same or any part thereof is situate shall from time to time cause to be raised the sums required by such committee for defraying the expenses of the maintenance and management of such enclosed garden or ornamental ground, or of such part thereof as is situate within their parish or district, by an addition to the general rate to be assessed on the occupiers of such houses; or if the said owners and occupiers shall not agree as aforesaid to undertake the charge of such garden or ornamental ground, the metropolitan board of works or corporate authority aforesaid shall, within six months after the notice hereinbefore mentioned shall have been put up within the same, or within such further time as the said board or authority may think it expedient to allow for such agreement to be come to, vest the same in such vestries or boards, who shall thenceforth take charge of and maintain the same as an open place or street in such manner as shall appear to them most advantageous to the public, subject to the approval of the metropolitan board of works or corporate authority, as the case may require; saving and always reserving to every person and persons, his and their heirs, executors, administrators, and assigns, all such estate, right, title, and interest as he, she, or they would or ought to have had and enjoyed of, in, to, from, or out of the gardens and grounds aforesaid in case this act had not passed.

or vested in a committee of rated inhabitants.

Protection of open spaces from encroachment.

II. And whereas it is expedient that the same should be carefully protected from undue encroachment, where any right to require that any garden or ornamental ground as aforesaid be kept and maintained as such, or that the same shall not be built upon, shall belong to any person in right of any house or other property, and he shall by notice in writing signed by him addressed to the metropolitan board of works where the same is in any place under their jurisdiction, except the city of London, where the same shall be addressed to the corporation of the said city, or to the corporate authorities in any other city or borough, requesting the said metropolitan board of works or corporate authority to protect the right before mentioned, the said metropolitan board of works or corporate authority, after due inquiry, may, if they shall think fit, accede to such request, and then and thereupon the right of such person to require that such garden or ornamental ground be maintained as such, or that the same shall not be built upon, shall thenceforth be vested in such metropolitan board of works or corporate authority, who shall be fully empowered, for and in their own name, to exercise all the rights, powers, and privileges in relation thereto, and take such legal proceedings for asserting, defending, and protecting the same, as the said person might have exercised or taken.

Expenses how to be defrayed.

III. Any charge incurred by the metropolitan board of works in the execution of this act shall be deemed to be expenses of the said board for payment whereof provision is made by the act for the better local management of the metropolis; and the expenses incurred by any corporate authority shall be deemed to be expenses necessarily incurred by them in carrying into execution within and for their city or borough the act intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any other act amending the same.

5 & 6 W. 4, c. 76.

Byelaws for manage-

IV. Where any such garden or ground is managed by any committee of the inhabitants of any square, crescent, circus, street, or place, such com-

mittee may make, and from time to time revoke and alter, byelaws for the management of the same, and for the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which byelaws shall be entered in a book kept for that purpose by the committee, signed by the chairman of the meeting at which the same shall be passed, and which book shall and may be produced and read, and taken as evidence of such byelaws, in all courts whatever, and any inhabitant or servant, or other person admitted to such garden by any inhabitant, offending against the same, after they shall have been duly allowed, as hereinafter provided, upon proof thereof before a magistrate acting for the district in which such garden is situate, shall be liable for each offence to a penalty not exceeding five pounds: provided always, that such byelaws shall not come into operation until the same shall have been allowed by some judge of one of the superior courts, or by the justices in quarter sessions; and it shall be incumbent on such judge or justices, on the request of such committee, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow the same as they think meet.

ment of garden, &c.

Penalty for injuring garden.

V. Any police constable who shall see any person throwing any rubbish into any such garden, or trespassing therein, or getting over the railings or fence, or stealing or damaging the flowers or plants, or committing any nuisance therein, may apprehend such person, under the authority hereby given to him; and any person convicted before any magistrate acting for the district shall be liable for each and every offence aforesaid to a penalty not exceeding forty shillings, or to imprisonment for any period not exceeding fourteen days; and in case it shall be necessary to state in any proceedings the ownership of the property of such garden, flowers, or plants, it shall be sufficient to describe the same as the property of the committee by the name of A.B. and others.

Certain provisions of 18 & 19 Vict. c. 120, to be incorporated with this act, and to apply to penalties, &c., imposed by this act. 11 & 12 Vict. c. 43, also to apply.

VI. The provisions contained in the two hundred and twenty-fifth, two hundred and twenty-sixth, two hundred and twenty-seventh, and two hundred and twenty-eighth sections of the act passed in the session of parliament, held in the eighteenth and nineteenth years of the reign of her most gracious Majesty the Queen, chapter one hundred and twenty (*a*), shall be incorporated in this act, and shall apply to any penalty or forfeiture imposed by this act, or any byelaw made in pursuance thereof, in and for every matter or thing done or omitted to be done within the metropolitan district; and the act passed in the twelfth year of the reign of her Majesty the Queen, chapter forty-three (*b*) shall apply to every penalty or forfeiture imposed by this act, or any byelaw made in pursuance thereof, for any matter or thing done or omitted to be done within any other part of England and Wales.

Act not to extend to property of the crown or to property under the management of the commissioners of works, &c.

VII. Nothing in this act shall extend to or include any garden, ornamental ground, or other land belonging to her Majesty in right of her crown or of her Duchy of Lancaster, or any garden, ornamental ground, or other land for the time being under the management of the commissioners for the time being of her Majesty's works and public buildings, or of the commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any garden, ornamental or other ground, for which special provision is made for the due care and protection thereof by any public or private act of parliament.

Extent of act.

VIII. Nothing in this act shall extend to Scotland or Ireland.

(*a*) See *ante*, p. 401. (*b*) See note, p. 55.

## 26 Vict. c. 17.

26 Vict. c. 17.

### *An Act for amending the Local Government Act* (1858).

[11th May, 1863.]

21 & 22 Vict. c. 98.

Whereas by the Local Government Act, 1858 (*a*), after reciting "that it is expedient to amend the Public Health Act, 1848 (*b*), and to make further provisions for the local government of towns and populous districts in England," numerous provisions are made for the establishment of local government in towns and populous districts that may adopt the act, for the regulation of the sewerage, drainage, and buildings therein, for the maintenance of the streets and roads, and for police and other town purposes: and whereas it is expedient to place some restriction upon the adoption of the act by places containing a small population only, and otherwise to amend the said act: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

I. This act may be cited as "The Local Government Act Amendment Act, 1863."

Restriction as to the adoption of the act by certain places.

II. The adoption of the Local Government Act, 1858 (*a*), by any place where that act was not in force on the first day of March, one thousand eight hundred and sixty-three, and where the population according to the then last census is less than three thousand, shall not be of any validity unless it is approved by one of her Majesty's principal secretaries of state, on proof being given to his satisfaction that by reason of special circumstances it is expedient that such place should be allowed to adopt the act.

Before signifying his approval or disapproval the said secretary may cause an inquiry to be made in the place as to the circumstances alleged in support of the expediency of the adoption of the act, of the time and place of which inquiry fourteen days public notice shall be given, and on the determination of such inquiry shall give or withhold, as he thinks just, his approval of the adoption of the act.

The approval or disapproval of the said secretary of state shall be published by the said secretary in the Gazette, and such publication shall be evidence of the fact of that approval or disapproval having been given.

Amendment of sections 17 & 18 of 21 & 22 Vict. c. 98.

III. Petitions appealing against the resolution of adoption, and praying for exclusion from the operation of the Local Government Act, under the seventeenth section of that act (*c*), and appeals from owners and ratepayers who dispute the validity of the vote for adoption under the eighteenth section of the same act (*c*), may be presented and had at any time before the expiration of six weeks from the date of any resolution adopting the act.

As to abandonment of local government act in certain places.

IV. When a resolution adopting the Local Government Act has been passed in a place in which the population, according to the then last census, is less than three thousand, that resolution may at any time be rescinded by a subsequent resolution passed in the same manner in which resolutions for the adoption of the act are required to be passed, but the rescinding resolution shall not be of any effect unless it is approved by one of her Majesty's principal secretaries of state, and notice is published by him in the London Gazette of the passing of the resolution and of his approval thereof.

An appeal may be had from any such rescinding resolution in the same

(*a*) See 21 & 22 Vict. c. 98, p. 457. (*b*) See 11 & 12 Vict. c. 63, p 246. (*c*) P. 461

manner and subject to the same conditions, as nearly as may be, in and subject to which an appeal may be had against a resolution adopting the act; and the provisions of the Local Government Act relating to an appeal against the adoption of the act shall, with the requisite variations, apply to an appeal under this section. 26 Vict. c. 17.

The notice of the rescinding resolution shall not be published until the expiration of the time limited for an appeal, or until the determination of the appeal, but upon the publication thereof the adoption of the Local Government Act shall be deemed to be avoided as from the date of that publication, and from the same date the Local Government Act shall cease to be in force within the district, and the district shall revert to the position in which it was before the adoption of the Local Government Act; so nevertheless that any contracts that may have been entered into by or on behalf of the local board of any such district may be enforced in the same manner in all respects as if the Local Government Act had continued in force in the district, and so far as may be necessary for the enforcement of such contracts the local board and all their powers of levying money shall be deemed to be continued.

Provision for avoidance of constitution of district.

V. In any district constituted under the Local Government Act, 1858, where by that act the local board is required to be elected by the ratepayers, and where the population according to the then last census is less than three thousand, if no election of a local board in pursuance of the said act takes place within three months from the date of the constitution of the district, or if in any such district as last aforesaid the local board makes default in appointing fit and proper persons to the following offices or any of them, that is to say, to the office of surveyor, inspector of nuisances, clerk, and treasurer, within two months after the election of the local board, then upon the happening of either of the above events the adoption of the Local Government Act in the said district shall be void, and the Local Government Act, 1858, shall cease to be in force within the district, and the district shall revert to the same position as it was in before the adoption of the act; so nevertheless that any contracts that may have been entered into by or on behalf of the local board of any such district may be enforced in the same manner in all respects as if the Local Government Act had continued in force in the district, and so far as may be necessary for the enforcement of such contracts the local board and all their powers of levying money shall be deemed to be continued.

Local Government Act district to be within highway districts for purpose of highway meetings.

VI. Where any district under the Public Health Act, 1848, and the Local Government Act, 1858, or either of such acts, or any other place, is surrounded by or adjoins a highway district constituted under the Highway Acts, such first-mentioned district or other place shall for the purpose of any meeting of the highway board be deemed to be within such highway district.

Amendment of sect. 15 of 21 & 22 Vict. c. 98.

VII. The power of adopting any part or parts of the Local Government Act, 1858, given by that act(a) and the acts amending the same, shall not be exhausted by one adoption, but may be exercised from time to time.

Construction of acts.

VIII. The Public Health Act, 1848, and the acts amending the same, and the acts amending the Local Government Act, 1858(b), including this act, are hereby declared to be one act, and to be included under the expression the Local Government Act, 1858, or any words referring to that act.

(a) See pp. 460, 519.

(b) See 24 & 25 Vict. c. 61, p. 519.

## 26 & 27 Vict. c. 40.

26 & 27 Vict. c. 40.

### *An Act for the Regulation of Bakehouses (a).*

[13th July, 1863.]

Whereas it is expedient to limit the hours of labour of young persons employed in bakehouses, and to make regulations with respect to cleanliness and ventilation in bakehouses: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

I. This act may be cited as "The Bakehouse Regulation Act, 1863."

Interpretation of terms.

II. For the purposes of this act the words hereinafter mentioned shall be construed as follows; that is to say,

"Local authority" shall, as respects any place, mean the persons or bodies of persons defined to be the local authority in that place by the one hundred and thirty-fourth section of the act passed in the session holden in the eighteenth and nineteenth years of the reign of her present Majesty, chapter one hundred and twenty (*b*), or by the Nuisances Removal Acts hereinafter mentioned; that is to say, as to England, by the act passed in the session holden in the eighteenth and nineteenth years of the reign of her present Majesty, chapter one hundred and twenty-one (*c*), as amended by the act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter seventy-seven (*d*); as to Scotland, by the act passed in the session holden in the nineteenth and twentieth years of the reign of her present Majesty, chapter one hundred and three; and as to Ireland, by the acts passed, the one in the session holden in the eleventh and twelfth years of the reign of her present Majesty, chapter one hundred and twenty-three, and the other in the session holden in the twelfth and thirteenth years of the reign of her present Majesty, chapter one hundred and eleven:

"Bakehouse" shall mean any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which a profit is derived:

"Employed," as applied to any person, shall include any person working in a bakehouse, whether he receives wages or not:

"Occupier" shall include any person in possession:

"The court" shall include any justice or justices, sheriff or sheriff substitute, magistrate or magistrates, to whom jurisdiction is given by this act.

Limitation of hours of labour of persons under 18 years of age.

III. No person under the age of eighteen years shall be employed in any bakehouse between the hours of nine of the clock at night and five of the clock in the morning.

If any person is employed in contravention of this section the occupier of the bakehouse in which he is employed shall incur the following penalties in respect of each person so employed; that is to say,

For the first offence, a sum not exceeding two pounds:

For a second offence, a sum not exceeding five pounds:

For a third and every subsequent offence, a sum not exceeding one pound for each day of the continuance of the employment in contravention of this act, so that no greater penalty be imposed than ten pounds.

(*a*) See "Regulation of Bakehouses," p. 144.
(*b*) See 18 & 19 Vict. c. 120, s. 134, p. 375.
(*c*) See 18 & 19 Vict. c. 121, p. 419.
(*d*) See 23 & 24 Vict. c. 77, p. 496.

26 & 27 VICT. c. 40.

Regulations as to cleanliness of bakehouse.

IV. The inside walls and ceiling or top of every bakehouse situate in any city, town, or place containing according to the last census a population of more than five thousand persons, and the passages and staircase leading thereto, shall either be painted with oil or be limewashed, or partly painted and partly limewashed: where painted with oil there shall be three coats of paint, and the painting shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months: where limewashed the limewashing shall be renewed once at least in every six months.

Every bakehouse wherever situate shall be kept in a cleanly state, and shall be provided with proper means for effectual ventilation, and be free from effluvia arising from any drain, privy, or other nuisance.

If the occupier of any bakehouse fails to keep the same in conformity with this section he shall be deemed to be guilty of an offence against this act, and to be subject in respect of such offence to a penalty not exceeding five pounds.

The court having jurisdiction under this act may, in addition to or instead of inflicting any penalty in respect of an offence under this section, make an order directing that within a certain time to be named in such order certain means are to be adopted by the occupier for the purpose of bringing his bakehouse into conformity with this section; the court may upon application enlarge any time appointed for the adoption of the means directed by the order, but any noncompliance with the order of the court shall, after the expiration of the time as originally limited or enlarged by subsequent order, be deemed to be a continuing offence, and to be punishable by a penalty not exceeding one pound for every day that such noncompliance continues.

As to sleeping places near bakehouses.

V. No place on the same level with a bakehouse situate in any city, town, or place containing according to the last census a population of more than five thousand persons, and forming part of the same building, shall be used as a sleeping place, unless it is constructed as follows; that is to say,

Unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling:

Unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation:

And any person who lets, occupies, or continues to let, or knowingly suffers to be occupied, any place contrary to this act, shall be liable for the first offence to a penalty not exceeding twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

Power to local authority to enforce provisions of this act.

VI. It shall be the duty of the local authority to enforce within their district the provisions of this act, and in order to facilitate the enforcement thereof any officer of health, inspector of nuisances, or other officer appointed by the local authority, hereinbefore referred to as the inspector, may enter into any bakehouse at all times during the hours of baking, and may inspect the same, and examine whether it is or not in conformity with the provisions of this act; and any person refusing admission to the inspector, or obstructing him in his examination, shall for each offence incur a penalty not exceeding twenty pounds; and it shall be lawful for any inspector who is refused admission to any bakehouse, in pursuance of this section, to apply to any justice for a warrant authorising him, accompanied by a police constable, to enter into any such bakehouse for the purpose of examining the same, and to enter the same accordingly.

As to expenses of local authority acting under this act.

VII. All expenses incurred by any local authority in pursuance of the provisions of this act may be paid out of any rate leviable by them, and applicable to the payment of the expenses incurred by the local authority under the said Nuisances Removal Acts, and the said authority may levy such rate accordingly.

26 & 27 Vict. c. 40.

*Penalties.*

Recovery of penalties.

VIII. All penalties under this act may be recovered summarily before two or more justices; as to England, in manner directed by an act passed in the session holden in the eleventh and twelfth years of the reign of her Majesty Queen Victoria, chapter forty-three (*a*), intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders," or any act amending the same; as to Ireland, in manner directed by the act passed in the session holden in the fourteenth and fifteenth years of the reign of her Majesty Queen Victoria, chapter ninety-three, intituled "An Act to consolidate and amend the Acts regulating the Proceedings of Petty Sessions and the Duties of Justices of the Peace out of Quarter Sessions in Ireland," or any act amending the same; and as to Scotland, upon summary conviction, with power for the justices having cognisance of the case to sentence the offender to imprisonment for a period not exceeding three months until the penalty and the expenses of conviction are paid.

Jurisdiction of certain magistrates.

IX. Any act, power, or jurisdiction hereby authorised to be done or exercised by two justices may be done or exercised by the following magistrates within their respective jurisdictions; that is to say, as to England, by any metropolitan police magistrate or other stipendiary magistrate sitting alone at a police court or other appointed place, or by the lord mayor of the city of London, or any alderman of the said city sitting alone or with others at the Mansion-house or Guildhall; as to Ireland, by any one or more divisional magistrates of police in the police district of Dublin, and elsewhere by one or more justice or justices of the peace in petty sessions; and as to Scotland by the sheriff or sheriff substitute, or by any police magistrate of a burgh.

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## 26 & 27 Vict. c. 68.

26 & 27 Vict. c. 68.

*An Act to extend the Powers of the Act relating to the Main Drainage of the Metropolis* (*b*). [21st July, 1863.]

21 & 22 Vict. c. 104 (Metropolitan Main Drainage Act).

Whereas by an act of the session of the twenty-first and twenty-second years of the reign of her present Majesty, chapter one hundred and four, intituled "An Act to alter and amend the Metropolis Local Management Act, 1855 (*c*), and to extend the Powers of the Metropolitan Board of Works for the Purification of the Thames and the Main Drainage of the Metropolis" (which act is hereinafter referred to as the "Main Drainage Act, 1858" (*b*)), the metropolitan board of works are required to complete with all convenient speed the necessary works for the main drainage of the metropolis: and whereas the said board are empowered to borrow for the purposes of the said act in manner therein mentioned any sum of money not exceeding in the whole three millions, and the commissioners of her Majesty's treasury are authorised to guarantee in manner in the said act mentioned the payment of the principal and interest on the monies so borrowed: and whereas the said board have proceeded to a very considerable extent in the execution of the works required by the said Main Drainage Act, but by reason of the increase in the price of materials and labour since the date of the said act, and of the necessity having arisen for additional works, a further sum of one million two hundred thousand pounds will be required for the completion of the whole of such works: be it enacted by the Queen's most excellent Majesty, by and with the advice

(*a*) See note, p. 55. (*b*) See 21 & 22 Vict. c. 104, p. 487.
(*c*) See 18 & 19 Vict. c. 120, p. 343.

and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows; (that is to say,) 26 & 27 Vict. c. 68.

I. This act may be cited for all purposes as "The Metropolitan Main Drainage Extension Act, 1863." Short title.

II. The metropolitan board of works may borrow, with the consent and in manner provided by the Main Drainage Act, 1858, any sum of money not exceeding in the whole one million two hundred thousand pounds, in addition to the sums by that act authorised to be borrowed. Power to board to borrow 1,200,000*l*.

III. The commissioners of her Majesty's treasury may guarantee the payment of the principal and interest of any money borrowed under this act, in manner and subject to the conditions in and subject to which they are authorised to guarantee the payment of the principal and interest of any monies borrowed under the Main Drainage Act, 1858. Power to treasury to guarantee money borrowed.

IV. This act shall be construed as one with the Main Drainage Act, 1858, and all the provisions of that act with respect to the borrowing of money and the securities for the same, and with respect to the guarantee to be given by the commissioners of the treasury, and the indemnity of the commissioners against loss on this guarantee, and with respect to the levying rates, and generally with respect to any matter incidental to or consequential on the borrowing of money therein mentioned, shall apply to the monies authorised to be borrowed under this act in the same manner as if the monies were borrowed under the said Main Drainage Act, 1858. Construction of this act and the Main Drainage Act, 1858.

V. All monies borrowed under this act shall be applied to the same purposes as monies borrowed under the said Main Drainage Act, 1858. Application of monies borrowed under this Act.

VI. The time for the completion of the works authorised to be executed by the board for the main drainage of the metropolis shall be extended to the thirty-first day of December one thousand eight hundred and sixty-six. Extension of time for completion of works.

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## 26 & 27 Vict. c. 70.

*An Act to facilitate the Execution of Public Works in certain Manufacturing Districts; to authorise for that Purpose Advances of Public Money to a limited Amount upon Security of Local Rates; and to shorten the Period for the Adoption of the Local Government Act, 1858, in certain Cases.* [21st July, 1863.] 26 & 27 Vict. c. 70.

WHEREAS by an act of the last session of parliament (which was extended for a further period by an act of the present session), reciting that by reason of the closing of mills and factories in certain parts of the country great numbers of the labouring and manufacturing classes had been thrown out of employment, provision was made to enable boards of guardians of certain unions to obtain temporary aid to meet the extraordinary demands for relief therein: 25 & 26 Vict. c. 110. 26 & 27 Vict. c. 4.

And whereas great numbers of the same classes still remain out of employment in the parts of the country aforesaid, and it is expedient to make provision for better enabling local authorities therein to give employment by the execution of works of public utility and sanitary improvement:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. For the purposes of loans under this act, the commissioners of her Charge on

26 & 27 Vict. c. 70.

consolidated fund of 1,200,000*l.*, to be at disposal of public works loan commissioners.

Majesty's treasury may, from time to time, by warrant und of two or more of them, cause to be issued out of the consoli the United Kingdom, or the growing produce thereof, to the commissioners for the reduction of the national debt, any su money not exceeding in the whole one million two hund pounds (*a*), such money to be applied exclusively under this a at the disposal of the public works loan commissioners in lil all respects as money placed at their disposal under the act o of the twenty-fourth and twenty-fifth years of her Maj eighty) (*b*), and the acts therein recited, subject, nevertheles visions of this act, which provisions shall have full effect, not anything in the Public Works Loan Act, 1853 (*b*), to the tained.

24 & 25 Vict. c. 80.

16 & 17 Vict. c. 40.

Incorporation of provisions of Public Works Loan Acts.

II. All the several clauses, powers, authorities, provisoes, directions, regulations, restrictions, privileges, priorities, penalties, and forfeitures contained in and conferred and im said acts, or any of them, so far as the same can be made a are not varied by this act, shall be taken to extend to this everything to be done in pursuance of this act, and as if th herein repeated and set forth.

Power for public works loan commissioners to lend, and for local boards and authorities to borrow for the purposes and on the terms specified.

III. For the purposes of such works as are hereinafter m public works loan commissioners may, out of the money for th at their disposal under this or any other act, from time to any such local board or local or other authority as hereinaft namely,

Any local board acting under the Local Government Act, 18

Any local authority invested with powers of town gove rating under any local act, by whatever name such loc may be called;

Any commissioners or body of persons or other authority h to levy rates for general or special purposes; or

Any guardians of the poor authorised to borrow as hereinafter and any such local board or local or other authority may from borrow from the public works loan commissioners accordingly, sums of money as may be required, subject and according to t provisions:

(1.) Any such loan may be made for the purposes of any works which the local board obtaining the loan is a execute under the powers of the Local Government A or this act, or (as the case may be) which the lo authority obtaining the loan is authorised to execut powers of any local act or this act or otherwise:

(2.) Any such loan may be made to any such local or othe whether such local or other authority has or has n borrow under any local act or otherwise, independe act:

(3.) Any such loan may be made to any such local board other authority to the amount authorised by this a standing any limitation of the amount to be borro local board or local or other authority imposed by a or otherwise, but so that nothing in this act shall b give to any loan made under this act equality as charge, or of payment of interest or principal, wit made or to be made under any local act, except only portion (if any) of the money raised under this act as been raised under the local act, independently of this

(a) See 27 & 28 Vict. c. 104, s. 1, p. 603 (b) See note, (c) 21 & 22 Vict. c. 98, p. 457.

(4.) The total amount to be lent under this act to any local board or local or other authority shall not exceed such amount as would be equal to one year's rateable value (*a*) of the property assessable within the district or place in respect of which any such loan under this act may be made :

(5.) The interest payable in respect of every such loan under this act shall be at the rate of three pounds ten shillings per centum per annum :

(6.) The repayment of every such loan shall be made by such number of equal annual instalments, not exceeding thirty, as the poor law board specify in their order sanctioning the same ; but that board may, if they think fit, authorise the postponement of the payment of any instalment becoming due within the first three years for a period not exceeding two years :

(7.) The repayment of any such loan with the interest thereon shall be secured by the local board or local or other authority to whom the loan is made by a mortgage of or charge upon all or any of the rates leviable by such local board or local or other authority, either alone or together with such other property or income as may be agreed on between such local board or local or other authority and the public works loan commissioners ; and in the case of guardians, upon the security of the rates for the relief of the poor, or to be raised by the overseers in manner hereinafter provided ; and it shall not be incumbent on those commissioners to require any other security :

(8.) Every local board or local or other authority obtaining any such loan shall have power by virtue of this act to give such security as aforesaid, and to charge such rates, property, or income as aforesaid accordingly ; and every such local board or local or other authority shall have power, by virtue of this act, and is hereby required, to levy such rates or to make such orders for contributions respectively as may be requisite for the purposes of any such security, notwithstanding any limitation of the amount of rates to be levied by such local board or local or other authority imposed by any local or other act or otherwise ; and in the case of any local board or local authority having rating powers under "The Local Government Act, 1858" (*b*), or any general or local act, such rates may be included in and levied with the general district rate under that act, or any rate levied under any general or local act :

(9.) The provisions of sections fifty-seven and seventy-eight of the Local Government Act, 1858 (*b*), and any provisions relative thereto in the same or any other act contained, shall not apply to any loan under this act :

(10.) Every loan under this act shall be made with the authority of an order of the poor law board, which order that board may make if satisfied that the circumstances of the district for which the loan is required in reference to the charge for the relief of the poor are such as to render the loan expedient, and that all the conditions of this act have been complied with on the part of the local board or local or other authority desiring to obtain the loan ; and any such order of the poor law board shall be sufficient to authorise the public works loan commissioners to make any such loan, and shall not be liable to be questioned in any court of law or equity.

IV. Any local board or local or other authority obtaining a loan under Application

(*a*) See 27 & 28 Vict. c. 104, s. 4, p. 603.
(*b*) See 21 & 22 Vict. c. 98, p. 457.

26 & 27 Vict. c. 70.

this act shall apply the whole of the money borrowed exclusively for the purposes of such permanent works as aforesaid, and shall not apply any part thereof in or towards paying off any debt or charge existing at the time of the making of such loan other than such as may be due in respect of such works.

of money borrowed.

Postponement or withholding of instalments of loan when works not proceeded with satisfactorily.

V. The money borrowed shall be advanced by the public works loan commissioners in such instalments as the poor law board shall from time to time by any order direct; and the payment by the public works loan commissioners of any such instalment may be postponed or withheld on a notice from the poor law board certifying that the works in respect of which the loan was authorised are not being proceeded with, in conformity with the plan proposed, to the satisfaction of the poor law board.

Appointment of inspecting engineer.

VI. One of her Majesty's principal secretaries of state may, upon the application of the poor law board, appoint from time to time an engineer or engineers to report to that board upon any works proposed to be executed, or in the course of being executed, or completed, by means of a loan under this act, and the engineer or engineers so appointed shall have full power and authority, at all reasonable times, to examine the plans, specification, and estimates of such works, to enter upon and survey such works or the site thereof, and to inspect the accounts of any local board or local or other authority in relation thereto.

Abridgment of time requisite for adoption of Local Government Act.

VII. For facilitating the adoption of the Local Government Act, 1858 (a), the following provisions shall, until the first day of July one thousand eight hundred and sixty-four, take effect and be in force:

(1.) Section twelve of that act, and any provision relative thereto, shall be read and construed as if the words "a week's" were substituted in that section for the words "a month's:"

(2.) Section seventeen of that act, and any provision relative thereto, shall be read and construed as if the words "fourteen days" were substituted in that section for the words "twenty-one days," and as if the words "seven days" were substituted in that section for the words "fourteen days:"

(3.) Section twenty of that act, and any provision relative thereto, shall be read and construed as if the words "twenty-one days" were substituted throughout that section for the words "two months:"

(4.) Section three of the Local Government Act Amendment Act, 1863 (b), shall not apply to appeals against resolutions of adoption in cases coming within the operation of this act.

Mode of proceeding on acquisition of powers under Local Government Act.

VIII. Where any local authority acquires under this act any powers by virtue of section fifteen of the Local Government Act, 1858 (a), which are repugnant to or inconsistent with those of the local act, the local authority shall proceed under the powers and provisions of the Local Government Act, 1858 (a); and wherever in any such case the last-mentioned act and the local act contain provisions for effecting the same or a similar object, but in different modes, the local authority may proceed under the Local Government Act, 1858 (a), or under the local act.

In every such case of acquisition of powers under this act, section twelve of the Local Government Act, 1858 (a), and any provision relative thereto, shall be read and construed as if the words "a week's" were substituted in that section for the words "a month's."

Power to abandon the Local Government Act.

IX. Section four of "The Local Government Act Amendment Act, 1863" (b), shall apply to any place which may adopt "The Local Government Act, 1858" (a), under this act, notwithstanding the population of such place is more than three thousand.

Mode of proceeding in respect

X. With respect to any works to be executed in exercise of the powers contained in section sixty-nine of "The Public Health Act, 1848" (c),

(a) See 21 & 22 Vict. c. 98, p. 457. (b) See 26 Vict. c. 17, p. 573.
(c) See 11 & 12 Vict. c. 63, s. 69, p. 272.

and section thirty-eight of "The Local Government Act, 1858" (*a*), by means of any loan under this act: 26 & 27 Vict. c. 70.

(1.) The notice required to be given prior to the execution of such works by the local board or local authority may be in the form prescribed by "The Local Government Amendment Act, 1861" (*b*), or to the like effect, and may be served by delivering the same to or at the residence or place of business of the person or persons to whom it is addressed, or by delivering the same to some person upon the premises in respect of which the works are required, or, if there be no person upon the premises who can be so served, by fixing such notice upon some conspicuous part of the premises, or advertising the same in one or more of the newspapers circulated in the place: of the paving, &c., of private streets.

(2.) Specifications and estimates of the works, certified by the surveyor of the local board or local authority, shall be deposited for inspection, with the plan and sections, in the manner required by "The Local Government Act (1858) Amendment Act, 1861" (*b*); and when the works affect the property of more than one person, the estimates shall show the proposed apportionment of the expenses of the works in respect of such properties respectively:

(3.) Any person to whom such notice as aforesaid has been given may, before the expiration of the period limited thereby for the execution of the works mentioned therein, object to the execution of such works in the manner specified, and to the proposed apportionment of the expenses of executing the same, and may give notice in writing within the period aforesaid to the local board or local authority of the matters objected to:

In default of giving the notice lastly required, it shall not be competent for such person to question the validity of any rate or charge made by the local board or local authority for defraying or securing the expenses incurred by them in executing such works, except on the ground that the same have not been executed in conformity with the plan, section, specification, or estimates thereof:

(4.) In case of notice of objection as aforesaid, the local board or local authority may thereupon require that the several matters objected to shall be referred to arbitration in the manner prescribed by "The Public Health Act, 1848" (*c*), before they proceed to execute the works in question, and the result of such arbitration shall be final:

(5.) The charge upon any property affected by the works executed under this section in respect of the expenses incurred by any local board or local authority in the execution of such works shall have priority over any mortgage or other incumbrance upon such property, and shall be recoverable in the manner provided by "The Public Health Act, 1848," and "The Local Government Act, 1858," for the like purpose.

XI. No objection shall be allowed at the hearing of any information or other proceeding under this act on the ground of any alleged defect in substance or in form in any notice, summons, complaint, or order made or issued under this act, or on account of any variance between such notice, summons, complaint, or order, and the evidence adduced at the said hearing, unless it shall appear to the justices present and acting at the said hearing that the said alleged defect or variance has misled the person by or on whose behalf the said objection is taken; but if the said justices shall be of opinion that the said alleged defect or variance has misled such Objections, &c.

(*a*) See 21 & 22 Vict. c. 98, s. 38, p. 468. (*b*) See 24 & 25 Vict. c. 61, s. 16, p. 528.
(*c*) See 11 & 12 Vict. c. 63, p. 289.

26 & 27 Vict. c. 70.

person, it shall be lawful for the said justices to amend the same, and to adjourn the hearing of such information or proceeding to such time and on such terms as they shall think fit.

Additional powers for local boards or local authorities to execute works of improvement.

XII. Any local board or local or other authority (except guardians) shall have power to execute, by means of any loan under this act, all or any of the following works, subject to the restrictive and saving clauses and provisions contained in the Local Government Act, 1858 (*a*), so far as the same are applicable to the execution of any such works, in addition to the works authorised by the Local Government Act, 1858 (*a*), or any local act; that is to say, any such local board or local or other authority shall have power—

To acquire, drain, lay out, plant, or otherwise improve any common or other lands used or intended to be used as places of public recreation, to construct, improve, or enlarge any reservoir for water supply, and to lay down or extend the requisite pipes for such reservoir;

To widen, deepen, cleanse, embank, straighten, or otherwise improve any river, stream, or brook;

and also to enter into any agreement respecting the execution of any such work, or the apportionment of the cost thereof, with any person or authority interested in any such lands, river, stream, or brook, or in any property adjoining thereto, or likely to be beneficially or otherwise affected by any such work.

Power for execution of private improvements by agreement with owners of property.

XIII. Any local board or local or other authority may agree, but in the case of guardians not without the approval of the poor law board, with the owner of any lands in or adjoining to or near their district to make any road or to execute any work of drainage or of private improvement through, in, or on such lands, at the expense of the owner, and may allow the owner time for repayment of the amount expended, and receive the same by annual instalments, not being less than one-thirtieth part of the entire sum, with interest at not less than the rate of three pounds ten shillings per centum per annum upon the sum from time to time remaining unpaid.

Where such owner has a limited estate or interest only in such lands, he may, by an instrument in the form set forth in the schedule to this act, with such variations as circumstances may require, charge the inheritance of such lands with the amount so expended, and with the amount of the costs incurred by the local board or local or other authority, and by such owner, in relation to the security to be given by him, together with interest for the aggregate of those amounts, at the rate aforesaid, and may, by the same instrument, declare the manner and times of the payment of such interest and of the instalments aforesaid; and all the provisions of the Local Government Act, 1858 (*a*), with respect to the recovery and redemption of private improvement rates shall apply, as far as may be, to every such charge.

Provided, that no such instrument shall operate so as to charge the estate or interest of any person taking in succession after such limited estate or interest, until a certificate, signed by an engineer to be appointed as aforesaid, has been endorsed thereon, to the effect that in the opinion of such engineer the works in respect of which such charge is intended to be created have been duly executed, and will effect such a permanent increase in the yearly value of the lands to be charged as will render the amount expended an outlay beneficial to the inheritance; and every such certificate, so signed, shall be conclusive evidence that the engineer by whom the same is given has been duly appointed for the purpose aforesaid.

In this section the term "owner" means the person who is for the time being in receipt, whether on his own account or as trustee for any other person, of the rackrent of the lands affected by such works; or who, if such lands were let to a tenant at rackrent, would for the time being be

(*a*) See 21 & 22 Vict. c. 98, p. 457.

entitled to the receipt thereof, whether on his own account or as trustee for any other person: provided that any person holding any lands under a lease shall not be entitled to be deemed the owner thereof within the meaning of this section unless he holds the same for a term whereof thirty years at least are unexpired at the passing of this act, or for lives whereof two at least are subsisting at the passing of this act, and where such years or lives are not unexpired or subsisting the person entitled to the reversion immediately expectant on the determination of such lease shall be deemed the owner within the meaning of this section. 26 & 27 Vict. c. 70.

Power for guardians, where there is no local board or local authority, to borrow for useful works.

XIV. If the guardians of any union, parish, or township should, at a meeting held after special notice in writing sent to every elected and *ex officio* guardian of the union, determine that it would contribute to the health or convenience of the inhabitants of any place for which such guardians are the local authority for executing the powers of the Nuisances Removal Acts (*a*) that any of the following works should be executed; viz.,

That any pond, pool, open ditch, sewer, or drain should be drained, cleansed, covered, or filled up;

That any highway or public road or footpath should be made, levelled, or improved;

That any river, stream, or brook should be widened, deepened, cleansed, embanked, straightened, or otherwise improved;

That a sewer or drain should be made or improved;

That a well should be dug;

That a reservoir for water supply should be constructed, improved, or enlarged, or the requisite pipes connected with any reservoir for water supply be laid down, improved, or extended;

That any common or other lands used or intended to be used as places of public recreation should be drained, laid out, planted, or otherwise improved; or

That any other work of public utility or sanitary improvement should be executed;

such guardians may procure a plan of such works, and an estimate of the cost thereof, and lay the same before the poor law board, who, upon being satisfied that such works may be properly undertaken and executed, may, by an order, authorise the guardians to borrow, and thereupon the public works loan commissioners may lend to the guardians, subject and according to the provisions hereinbefore contained, such money as the poor law board may consider necessary for the works so approved, the repayment of such money, with interest at the rate aforesaid, to be secured by the guardians by a mortgage of or charge upon the rates raised or to be raised in manner hereinafter mentioned; the guardians shall cause such works to be executed, subject to the restrictive and saving clauses and provisions contained in the Local Government Act, 1858 (*b*), so far as the same are applicable to the execution of any such works, paying the cost thereof out of the money so borrowed, with power nevertheless, if they think fit, from time to time to appoint a committee or committees of their own body, of which committee the elected guardian or guardians of any such place and the justices of the peace resident therein shall *ex officio* be members, if not otherwise elected, to act in and for one or more of the places for which the guardians are the local authority, and every committee so appointed shall have the full power to direct and superintend the execution of such works within the specified place or places for which the committee is appointed.

Manner in which parishes are to contribute to-

XV. The instalments of principal in repayment of any loan under this act to guardians shall, with the interest on so much of the loan as from time to time remains unpaid thereon, be contributed and raised in manner hereinafter mentioned; (that is to say,)

(*a*) See 18 & 19 Vict. c. 121, p. 419, and 23 & 24 Vict. c. 77, p. 493; also "Constitution of Local Authorities," p. 24.

(*b*) See 21 & 22 Vict. c. 98, p. 457.

26 & 27 Vict. c. 70.

wards the repayment of loans to guardians.

(1.) Where the works for which the loan has been advanced shall be undertaken for a place maintaining its own poor, the instalments and the interest shall be contributed by the overseers upon the order of the guardians out of the poor's rate, in like manner as the other claims of the guardians upon them :

(2.) Where the works shall be undertaken for two or more such places the instalments and the interest shall be apportioned by the guardians between such places in proportion to the costs of the works undertaken therein respectively, as set forth in the estimate for the same, approved of by the poor law board, and the instalments and interest when so apportioned shall be contributed by the overseers of such places respectively upon the order of the guardians as aforesaid :

(3 ) Where the works shall be undertaken for a place, for part only of which the guardians are the local authority, the instalments and the interest shall be contributed by the overseers upon the order of the guardians, but the overseers shall raise the amount from time to time as required by a rate upon all the rateable property within that part of such place within which the guardians are the local authority, as if such part were a separate place maintaining its own poor ; and such rate shall be made and enforced in like manner in every respect as a rate for the relief of the poor :

(4.) Where the works shall be undertaken for one or more places maintaining their own poor, and also for one or more such places, for part only of which the guardians are the local authority, the instalments and the interest shall be apportioned by them between such places and parts of places respectively, and shall be contributed and collected by the overseers in manner hereinbefore provided with respect to contributions from such places and parts of places respectively.

Incorporation of Lands Clauses Act, except as to compulsory powers.

XVI. The Lands Clauses Consolidation Act, 1845 (*a*), and any act amending the same, except with respect to the taking of lands otherwise than by agreement, shall be incorporated with this act ; and for the purposes of those acts this act shall be deemed the special act, and the local board or local or other authority exercising the powers of this act shall be deemed the promoters of the undertaking.

Incorporation of clauses of 10 & 11 Vict. c. 16, with respect to mortgages.

XVII. The clauses of the Commissioners Clauses Act, 1847 (*b*), with respect to the mortgages to be executed by the commissioners, except so far as the same may be inconsistent with the provisions of the said act of the session of the twenty-fourth and twenty-fifth years of her Majesty (chapter eighty), or of any of the acts therein recited, shall be incorporated with this act ; and in the construction of this act and of the said incorporated clauses this act shall be deemed the special act, and the local board or local or other authority to which a loan is made shall be deemed to be the commissioners.

Validity of mortgages notwithstanding irregularities of proceedings.

XVIII. Every mortgage for securing money lent under this act purporting to be executed by any such local board or local or other authority as hereinbefore described, except guardians, in manner provided by the clauses of the Commissioners Clauses Act, 1847 (*b*), herein incorporated, and every like mortgage purporting to be executed by the guardians of any union, parish, or township as aforesaid, shall constitute a complete and valid security on the rates, property, and income thereby expressed to be mortgaged, and shall give to and impose on the local board or local or other authority intrusted with the levying of the rates thereby expressed to be mortgaged, or authorised to make calls for contributions as hereinbefore mentioned, the power and obligation from time to time to levy such rates, or to make and enforce such calls, as the case may be, to an amount

(a) See note, p. 118. (b) See note, p. 100.

sufficient to maintain any such works, and to discharge, in manner provided by such mortgage, the principal and interest expressed to be thereby secured, notwithstanding any defect or irregularity in the election, appointment, constitution, or proceedings of such local board or local or other authority, and notwithstanding any vacancy in the number of persons, or any disqualification of any person or persons being a member of or constituting such local board or local or other authority, and notwithstanding that any person or persons may have assumed to act as member or members of such local board or local or other authority, or as such authority, though not legally elected, appointed, constituted, or qualified as such member, members, or authority.

Validity of security on rates notwithstanding defect in compliance with conditions of act.

XIX. Where the public works loan commissioners make a loan in pursuance of any such order of the poor law board as hereinbefore mentioned, and take a mortgage for securing repayment of the same, purporting to be made under the authority of this act, they shall not be bound to require proof that any condition imposed by this act has been duly complied with; and in every such case the local board or local or other authority shall have full power and is hereby required to levy the rates mortgaged, or to make and enforce such calls for contributions as aforesaid, as the case may be, for repayment of the money borrowed, with interest, notwithstanding that any such condition may not have been complied with; and it shall not be competent to any ratepayer or other person to question the validity of any such mortgage or rate on the ground that any such condition had not been complied with.

Limitation of time for obtaining loans.

XX. The poor law board shall not make an order for a loan under this act in any case after the first day of July one thousand eight hundred and sixty-four (*a*), unless they think fit to make an order after that day with a view to the completion of works then already begun.

Extent of act same as that of Union Relief Aid Acts.

XXI. This act shall extend and apply only to boroughs, parishes, towns, districts, and places within or comprising the unions situate wholly or in part in the counties of Chester, Lancaster, and Derby.

Interpretation.

XXII. The word "overseers" shall include churchwardens in the case of any parish to which this act applies.

Short title.

XXIII. This act may be cited as the Public Works (Manufacturing Districts) Act, 1863.

## SCHEDULE.

THIS deed, made the day of one thousand eight hundred and sixty- , witnesseth, that *A.B.* of being the owner within the meaning of "The Public Works (Manufacturing Districts) Act, 1863," of the lands mentioned in the schedule hereto, by virtue and in exercise of the power in this behalf vested in him by the said act, and of every other power enabling him in this behalf, doth hereby charge the inheritance of such lands with the sum of pounds, being the amount expended by [*describe the local board or local or other authority*] in the execution of the following works for the improvement of the said lands [*describe the works*], and with the sum of pounds, being the amount of the costs incurred by the said local board [*or local or other authority*] and the said *A.B.* as such owner as aforesaid in relation to this present security, making together the sum of , pounds, together with interest for the same aggregate sum of pounds at the rate of per centum per annum from the day of until full payment thereof; and doth hereby declare that the said principal money and interest shall be paid by the owner for the time being of the said lands to the said local board [*or local or other authority*] in manner following; namely, the interest on such principal sum of pounds, or on so

(*a*) See 27 & 28 Vict. c. 104, s. 3, p. 653.

26 & 27 Vict. c. 70.

much thereof as from time to time remains unpaid, shall be paid by equal half-yearly payments on the day of and the day of in every year, the first payment of such interest to be made on the day of one thousand eight hundred and sixty- ; and such principal sum of pounds shall be paid by equal annual instalments on the day of in every year, the first of such instalments to be paid on the day of one thousand eight hundred and sixty- .

In witness whereof the said *A. B.* hath hereunto set his hand and seal the day of one thousand eight hundred and sixty-

Witnesses.

*C. D.* *A. B.* (L.S.)
*E. F.*

SCHEDULE OF LANDS CHARGED.

| Description of Lands. | Name of Occupier. | Where Situate. | Total Acreage. |
|---|---|---|---|
| | | | |

## 26 & 27 VICT. c. 117.

26 & 27 Vict. c. 117.

*An Act to amend the Nuisances Removal Act for England, 1855, with respect to the Seizure of diseased and unwholesome Meat* (*a*). [28th July, 1863.]

WHEREAS the provisions of "The Nuisances Removal Act for England, 1855" (*b*), with regard to the inspection and seizure of diseased and unwholesome meat, are defective; and it is therefore expedient that the same should be repealed, and that other and more effectual provisions in that behalf should be substituted therefor: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Sect. 26 of recited act repealed.

I. From and after the passing of this act, the twenty-sixth section of the said act is repealed (*b*).

Power to medical officer of health or inspector of nuisances to inspect any animal, &c.

II. The medical officer of health or inspector of nuisances may at all reasonable times inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour exposed for sale, or deposited in any place for the purpose of sale or of preparation for sale, and intended for the food of man, the proof that the same was not exposed or deposited for such purpose or purposes, or was not intended for the food of man, resting with the party charged; and in case any such animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour appear to him to be diseased, or unsound, or unwholesome, or unfit for the food of man, it shall be lawful for such medical officer of health or inspector of nuisances to seize, take, and carry away the same, or direct the same to be seized, taken, and carried away by any officer, servant, or assistant, in order to have the same dealt with by a justice; and if it shall appear to the justice that any such animal, or any of the said articles, is diseased, or unsound or unwholesome, or unfit for the food of man, he

(a) See "Diseased Meat," p. 157. (b) See 18 & 19 Vict. c. 121, s. 26, p. 427.

shall order the same to be destroyed, or so disposed of as to prevent such animal or articles from being exposed for sale or used for such food; and the person to whom such animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour belongs or did belong at the time of sale or of exposure for sale, or in whose possession or on whose premises the same is found, shall, upon conviction, be liable to a penalty not exceeding twenty pounds for every animal, carcase, or fish, or piece of meat, flesh, or fish, or any poultry or game, or for the parcel of fruit, vegetables, corn, bread, or flour so found, or, at the discretion of the justice, without the infliction of a fine, to imprisonment in the common gaol or house of correction for a term of not more than three calendar months. 26 & 27 Vict. c. 117.

III. In case any person shall in any manner prevent such medical officer of health or inspector of nuisances from entering any slaughterhouse, shop, building, market, or other place where such animal, carcase, meat, poultry, or fish is kept for the purpose of sale or of preparation for sale, or shall in any manner obstruct or impede him, or his servant or assistant, when duly engaged in carrying the provisions of this act into execution, such person shall be liable to a penalty not exceeding five pounds. Penalty for obstructing medical officer of health, &c.

IV. This act and "The Nuisances Removal Act for England, 1855," shall be read and construed together as one act. This and recited act to be as one act.

V. This act may be cited for all purposes as "The Nuisances Removal Act for England (Amendment) Act, 1863." Short title.

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## 26 & 27 Vict. c. 124.

*An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works.* [28th July, 1863.] 26 & 27 Vict. c. 124.

Whereas it is expedient to provide for the better condensation of the muriatic acid gas evolved in alkali works: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows: *Preliminary.*

I. This act may be cited as the "Alkali Act, 1863." Short title.

II. This act shall come into operation on the first day of January one thousand eight hundred and sixty-four. Commencement of act.

III. The term "alkali work," as hereinafter used, shall mean every work for the manufacture of alkali, sulphate of soda, or sulphate of potash in which muriatic acid gas is evolved: Interpretation of terms.

The term "owner," as hereinafter used, shall mean the lessee or occupier or any other person carrying on any alkali work:

The term "the inspector" shall mean the inspector to be appointed under this act.

IV. Every alkali work shall be carried on in such manner as to secure the condensation to the satisfaction of the inspector, derived from his own examination or from that of a sub-inspector, of not less than ninety-five per centum of the muriatic acid gas evolved therein: provided always, that nothing herein contained shall entitle the inspector to direct any alteration to be made in the process of manufacture or the apparatus used therein. *Alkali Works.* As to the conduct of alkali works.

If any alkali work is carried on in contravention of this section, the owner of that work shall, on its being made to appear to the court before which any proceedings for recovery of a penalty may be instituted that ninety-five per centum at least of the muriatic acid gas evolved in such work has not been condensed, be deemed to be guilty of an offence against

this act, and be subject in respect of the first conviction to a penalty not exceeding fifty pounds, and in respect of every offence after a previous conviction to a penalty not exceeding one hundred pounds: provided always, that no such owner shall be convicted of more than one such offence in respect of any one day: provided also, that no such penalty shall be inflicted unless the inspector shall produce before the court having cognisance of the matter a statement in writing of the facts on which he founds his opinion that ninety-five per centum of the muriatic acid gas evolved in the alkali work is not condensed therein, and serve a copy thereof with the process commencing the proceedings.

Owner to be liable for offences in the first instance, unless he prove that the offence was committed by some agent, &c., without his knowledge, in which case such agent, &c., to be liable.

V. The owner of any alkali work in which any offence against this act has been proved to have been committed, and for which a pecuniary penalty may be imposed, shall in every case be deemed to have committed the offence, and shall be liable to pay the penalty, unless he shall prove to the satisfaction of the court before which any action shall be brought for the recovery of such penalty that he has used due diligence to comply with and to enforce the execution of this act, and that the offence in question was committed by some agent, servant, or workman, whom he shall charge by name as the actual offender, without his knowledge, consent, or connivance, in which case such agent, servant, or workman shall be liable to and may be sued for the payment of the penalty, and of the costs of all proceedings which may be taken for the recovery thereof, either against himself or against the owner under this act; provided that it shall be lawful for the inspector to proceed in the first instance against the person whom he shall believe to be the actual offender, without first proceeding against the owner, in any case in which it shall be made to appear to the satisfaction of such inspector that the owner has used all due diligence to comply with and to enforce the execution of this act, and that the offence has been committed by the person whom he may charge therewith without the knowledge, consent, or connivance of the owner, and in contravention of his orders.

As to the registration of alkali works.

VI. No alkali work shall at any time after the expiration of three months after the appointment of the inspector be carried on or prosecuted until such work has been registered by the owner with the inspector. In every register hereby required to be made there shall be inserted the name in full of the owner, and of the parish or township in which the work is situate, and within one month after change of ownership in any such work the register of such work shall be amended by inserting the name of the new owner; and if any alkali work is carried on in contravention of this section, the owner thereof shall, on conviction, be deemed to be guilty of an offence against this act, and shall be subject to a penalty not exceeding five pounds for every day during which such work shall have been so carried on.

*Inspectors.*

Appointment of inspectors.

VII. For the purpose of carrying into effect the provisions of this act, the board of trade may from time to time appoint any fit and proper person to be inspector of alkali works under this act, and may from time to time remove any inspector so appointed, and appoint another person in his place. The board of trade may also, on application of the inspector, from time to time appoint and remove such sub-inspector or sub-inspectors as the said board may deem necessary for the purpose of carrying this act into effect. Notice of the appointment of such inspector and sub-inspectors shall be published in the London Gazette, and a copy of the Gazette shall be evidence of the appointment made.

What persons disqualified from acting as inspector

VIII. No person either directly or indirectly acting or practising as a land agent, or directly or indirectly engaged in any manufacture, or interested in any patent in or according to which the decomposition of salt or the condensation of muriatic acid gas may be effected, shall act as an inspector or sub-inspector under this act.

Duties and powers of inspector.

IX. It shall be the duty of every inspector under this act to ascertain from time to time that all the alkali works are carried on in conformity

with the provisions of this act, and to enforce the said provisions, and to cause notice to be given to every owner whose work shall be carried on in contravention of this act of the commission of such offence as soon as conveniently may be after the commission thereof; and with a view to the performance of that duty he or any sub-inspector may at all reasonable times, by day and by night, without giving previous notice, but so as not to interrupt the process of the manufacture, enter upon and inspect any alkali work, and examine into the efficiency of the condensing apparatus, and the quantity of muriatic acid gas condensed, and generally into all matters and works tending to show compliance or non-compliance with the provisions of this act. And the owner of such works, upon demand of the inspector, shall within a reasonable time furnish him with a plan, to be kept secret by such inspector, of those parts of such works in which the decomposition of salt or other process causing the evolution of muriatic acid gas or the condensation thereof is carried on.

It shall be lawful for the inspector or any sub-inspector under his direction, but so as not to interfere with the process of the manufacture, to apply any tests or make any experiments he may think proper for the purpose of ascertaining the efficiency of the condensing apparatus, or the quantity of gas condensed; and the owner or agent of the works shall be deemed to be guilty of an offence against this act unless he renders to the said inspector or sub-inspector all necessary facilities for their entry, examination, and testing.

Salaries of inspectors and sub-inspectors.

X. Every inspector and sub-inspector appointed under this act shall be paid such salary as may be determined by the board of trade, with the consent of the commissioners of her Majesty's treasury.

General penalties on violation of act.

XI. Every person who wilfully obstructs any inspector or sub-inspector in the execution of this act, and every owner of any alkali work who refuses or neglects to afford to the inspector or sub-inspector the facilities necessary for making any entry, inspection, examination, or testing under this act, or who neglects or wilfully violates any provision of this act, or the neglect or violation of which no other penalty is by this act imposed, shall be guilty of an offence within the meaning of this act, and shall for every such offence incur a penalty not exceeding ten pounds.

Inspector to report to parliament.

XII. The inspector shall, on or before the first day of March in every year, make a report in writing to the board of trade of his proceedings during the preceding year, and a copy of such report shall be laid before both houses of parliament.

*Special rules.*

Power to owners of works to make special rules.

XIII. The owner of any alkali work may, with the sanction of the board of trade, make, alter, or repeal special rules for the guidance of such of his workmen as are employed in any process causing the evolution of muriatic acid gas, or whose duty it is to attend to the apparatus used in the condensation of that gas, and may annex penalties to any violation of such rules, so that no penalty exceeds two pounds for any one offence.

A printed copy of the special rules in force in any alkali work shall be given by the owner of the work to every person working or employed in or about that work affected thereby.

*Penalties.*

As to recovery of penalties in England for other than offences against a special rule.

XIV. The following regulations shall be enacted with respect to the recovery in England of penalties for offences other than offences against a special rule:

Every such penalty shall be recovered by action in the county court having jurisdiction in the district in which the alkali works are situate in respect of which the penalty arises:

The action shall be brought, with the sanction of the board of trade, by the inspector appointed under this act, within three months after the commission of the offence, and for the purposes of such action the penalty shall be deemed to be a debt due to such inspector:

The plaintiff in any action for a penalty under this act shall be pre-

26 & 27 Vict. c. 124.

sumed to be the inspector appointed under this act, until the contrary is proved by the defendant :

The court may, upon the application of either party, appoint a person to take down in writing the evidence of the witnesses, and may award to that person such compensation as the court thinks just :

The amount of compensation awarded by the judge shall be deemed to be costs in the cause :

If either party in any action for a penalty under this act feels aggrieved by the decision of the court in point of law, or on the merits, or in respect of the admission or rejection of any evidence, he may appeal from that decision to any of the superior courts of common law at Westminster :

The appeal shall be in the form of a special case to be agreed upon by both parties or their attornies, and if they cannot agree, to be settled by the judge of the county court upon the application of the parties or their attornies :

The court of appeal may draw any inferences from the facts stated in the case that a jury might draw from facts stated by witnesses :

Subject to the provisions of this section, all the enactments, rules, and orders relating to proceedings in actions in county courts, and to enforcing judgments in county courts, and appeals from decisions of the county court judges, and to the conditions of such appeals, and to the power of the superior courts, on such appeals, shall apply to an action for a penalty under this act, and to an appeal from such action, in the same manner as if such action and appeal related to a matter within the ordinary jurisdiction of the court :

Within the city of London and the liberties thereof the sheriff's court, established by a local act passed in the eleventh year of the reign of her present Majesty, chapter seventy-one, intituled "An Act for the more easy Recovery of Small Debts and Demands within the City of London and the Liberties thereof," shall be deemed to be the county court having jurisdiction in the case.

As to recovery of general penalties in Scotland.

XV. In Scotland any offence under this act, with the exception of offences against a special rule, shall be prosecuted at the instance of the inspector, with the sanction of the board of trade, before the sheriff or sheriff substitute of the county in which the offence has been committed, and the sheriff or sheriff substitute having cognisance of such offence may award costs to either party, and may sentence the offender to imprisonment for any period not exceeding six months, unless the penalty and costs be previously paid; and any decision or sentence of such sheriff or sheriff substitute shall be subject to review and appeal according to law.

As to recovery of general penalties in Ireland.

XVI. In Ireland all penalties incurred under this act, with the exception of penalties against a special rule, may be recovered by civil bill at the instance of the inspector, with the sanction of the board of trade, in the manner and with the appeal directed by an act passed in the fourteenth and fifteenth years of her Majesty, chapter fifty-seven, or any act or acts amending the law relating to civil bills.

Application of penalties.

XVII. All penalties recovered under this act, except in respect of offences against a special rule, shall be paid into the receipt of her Majesty's exchequer in such manner as the commissioners of the treasury may determine.

As to recovery of penalties for offences against special rule.

XVIII. All penalties incurred under this act in respect of any offence against a special rule may be recovered summarily in England and Ireland before two or more justices ; as to England, in manner directed by an act passed in the session holden in the eleventh and twelfth years of the reign of her Majesty Queen Victoria, chapter forty-three (a), intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of

(a) See note, p. 55.

Sessions within England and Wales with respect to summary Convictions and Orders," or any act amending the same; as to Ireland, in manner directed by the act passed in the session holden in the fourteenth and fifteenth years of the reign of her Majesty Queen Victoria, chapter ninety-three, intituled "An Act to consolidate and amend the Acts regulating the Proceedings of Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions, in Ireland," or any act amending the same; and in Scotland, before the sheriff or two justices in manner directed by "The Railways Clauses Consolidation, Scotland, Act, 1845," with respect to penalties imposed by that act the recovery of which is not otherwise provided for. 26 & 27 Vict. c. 124.

XIX. This act shall continue in force to the first day of July one thousand eight hundred and sixty-eight, and no longer. Term of act.

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## 27 & 28 Vict. c. 37.

*An Act to amend and extend the Act for the Regulation of Chimney Sweepers (a).* [30th June, 1864.] 27 & 28 Vict. c. 37.

Whereas by the act of the session of the third and fourth years of her Majesty Queen Victoria (chapter eighty-five) (b), "for the Regulation of Chimney Sweepers and Chimneys," provision was made to prevent any person compelling or knowingly allowing a child or young person under the age of twenty-one years to ascend or descend a chimney or enter a flue for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein: 3 & 4 Vict. c. 85.

And whereas it is expedient to amend in some particulars and to extend the said act (hereafter in this act called the principal act):

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. This act may be cited as "The Chimney Sweepers Regulation Act, 1864;" the principal act may be cited as "The Chimney Sweepers and Chimneys Regulation Act, 1840;" and the principal act and this act may be cited together as "The Chimney Sweepers and Chimneys Regulation Acts, 1840 and 1864." *General.* Short titles.

II. This act shall commence and take effect on the first day of November one thousand eight hundred and sixty-four. Commencement of act.

III. In this act— Interpretation of terms.

The term "sheriff" includes stewart:

The term "chimney sweeper" means a person using the trade or business of a chimney sweeper.

IV. This act shall be construed together with the principal act as one act, and for this purpose the expression "this act" when used in the principal act shall be taken to include the present act. This act to be construed with principal act.

V. Any pecuniary penalty recovered under this act shall be applied as directed in the principal act. Application of penalties.

VI. It shall not be lawful for a chimney sweeper to employ a child under the age of ten years to do or assist in doing any work or thing in or about the trade or business of such chimney sweeper elsewhere than within the house or place of business of such chimney sweeper, or the yard or buildings (if any) connected therewith. *Protection of children and young persons.* Restriction on employment of children under ten.

(a) See "Protection of Chimney Sweepers," p. 152.
(b) See 3 & 4 Vict. c. 85, p. 208.

27 & 28 Vict. c. 37.

Chimney sweepers entering houses to sweep chimneys, &c., not to bring with him persons under sixteen.

VII. It shall not be lawful for a chimney sweeper, on any occasion of his entering a house or building for the purpose of sweeping, cleaning, or coring a chimney or flue therein or belonging thereto, or for extinguishing fire in any such chimney or flue, to cause or knowingly allow a person under the age of sixteen years in his employment or under his control to enter before, with, or after him into any part of such house or building, or to be therein for any part of the time during which such chimney sweeper himself continues therein for any such purpose as aforesaid.

Penalties for before-named offences.

VIII. If any chimney sweeper acts in contravention of either of the foregoing enactments, he shall for every such offence be liable to a penalty not exceeding ten pounds.

Power to justices to impose imprisonment.

IX. Where under section two of the principal act a chimney sweeper is convicted of the offence of compelling or knowingly allowing a person under the age of twenty-one years to ascend or descend a chimney or enter a flue for any purpose in that section mentioned, the justices or sheriff before whom he is convicted may, in lieu of the imposition of any such pecuniary penalty as is authorised by that section, adjudge the offender to be imprisoned in the common gaol or house of correction for any term not exceeding six months, with or without hard labour.

Burden of proof of age to lie on chimney sweeper.

X. In any prosecution of a chimney sweeper for any offence against the principal act or against this act, where the age of any young person or child comes in question, the proof of the age of such young person or child shall lie on the defendant.

Abolition of minimum penalty.

XI. Section two of the principal act shall be read as if the words "or less than five pounds" were omitted therefrom.

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## 27 & 28 Vict. c. 85.

27 & 28 Vict. c. 85.

*An Act for the Prevention of Contagious Diseases at certain Naval and Military Stations.* [29th July, 1864.]

Whereas it is expedient to make provisions calculated to prevent the spreading of certain contagious diseases in the places to which this act applies:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows:

Short title.

I. This act may be cited as the Contagious Diseases Prevention Act, 1864.

Interpretation of terms.

II. In this act—

The term "contagious disease" means venereal disease, including gonorrhœa:

The term "hospital" includes ward of a hospital:

The term "public place" means a thoroughfare or other public street or place, or a house or room which is open to the inspection of the police.

Act to extend only to places in schedule.

III. The places to which this act applies shall be the places mentioned in the first schedule hereto, the limits of which places shall for the purposes of this act be such as are defined in that schedule.

Provision as to expenses of act.

IV. Expenses incurred in the execution of this act shall be paid under the direction of the lord high admiral of the United Kingdom or the commissioners for executing his office (hereafter in this act styled the Admiralty), and of such one of her Majesty's principal secretaries of state as her Majesty thinks fit for the time being to intrust with the seals of the

war department (hereafter in this act styled the secretary of state for war), out of money to be provided by parliament for the purpose.

Appointment of inspector of hospitals under this act.

V. The admiralty and the secretary of state for war shall, on the passing of this act, appoint a superior medical officer of her Majesty's navy or army to be, during pleasure, inspector of hospitals certified under this act, and may from time to time, on the death, resignation, or removal from office of any such inspector, appoint another such officer in his stead.

Hospitals to be examined and reported on.

VI. On the application of the authorities having the direction or management of any hospital desiring that such hospital should be certified under this act, the admiralty and the secretary of state for war may direct the inspector of hospitals to examine and report to them on the condition of that hospital, and on the regulations established for its direction and management.

Power to certify hospitals on such examination and report.

VII. If on such examination and report the hospital appears to the admiralty and the secretary of state for war to be useful and efficient for the purposes of this act, and is certified in writing to be so by the admiralty and the secretary of state for war, the same shall be deemed a certified hospital for the purposes of this act; and every such hospital is in this act referred to as a certified hospital; and the admiralty and the secretary of state for war shall state in their certificate what persons or officers for the time being are to be deemed the authorities of the hospital for the purpose of exercising the powers hereinafter given, and the persons or officers so stated shall be such authorities accordingly.

Hospital to be inspected from time to time.

VIII. The inspector shall from time to time visit and inspect every certified hospital.

Power to withdraw certificate.

IX. If on the report of the inspector respecting any certified hospital the admiralty and the secretary of state for war think proper to withdraw their certificate, that hospital shall thereupon cease to be a certified hospital for the purposes of this act.

The granting or withdrawal of certificate to be published in Gazette.

X. A notice shall be published in the London or Dublin Gazette (as the case may require) of the granting or withdrawal of any certificate relative to any hospital under this act; and a copy of the Gazette containing any such notice shall be sufficient evidence of such granting or withdrawal; and any such certificate shall be presumed to be in force until the withdrawal thereof is proved.

On information, justice may issue to woman named in information a notice as in second schedule.

XI. Where an information, in the form given in the second schedule to this act, or to the like effect, is laid before a justice of the peace by a superintendent or inspector of metropolitan police, or by a superintendent or inspector of police or constabulary authorised to act in any place to which this act applies, or by any medical practitioner duly registered as such, the justice may, if he thinks fit, issue to the woman named in the information a notice in the form given in the same schedule, or to the like effect.

Constable to serve notice on woman.

XII. A constable or other peace officer shall serve such notice on the woman to whom it is directed, by delivering the same to her personally, or by leaving the same with some person for her at her last or usual place of abode.

Justice may order medical examination at certified hospital.

XIII. In either of the following cases; namely,—

(1.) If the woman on whom such notice is served appears herself, or by some person on her behalf, at the time and place appointed in the notice, or at some other time and place appointed by adjournment:

(2.) If she does not so appear, and it is shown (on oath) to the justice present that the notice was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her (as the case may be):

the justice present, on oath being made before him substantiating the

27 & 28 Vict. c. 85.

matter of the information to his satisfaction, may, if he thinks fit, order such woman to be taken to a certified hospital for medical examination.

Medical examination at certified hospital.

XIV. Such order shall be a sufficient warrant for any constable or peace officer to whom the order is delivered, to apprehend such woman, and to convey her with all practicable speed to the hospital therein named, and for the authorities of the hospital to cause her to be examined by some medical officer of such hospital, for the purpose of ascertaining whether or not she has a contagious disease, and in case, on such examination, it is ascertained that she has a contagious disease, then to detain her in the hospital for twenty-fours from the time of her being brought there.

Power for woman to submit to examination voluntarily.

XV. Any woman on whom notice is served by any constable or peace officer, in pursuance of this act, may signify to him her willingness to submit herself voluntarily for examination to the medical officers of the nearest certified hospital; and in that case it shall be the duty of such constable or peace officer to accompany her to such hospital, and her examination shall then be made in the same manner and with the same consequences as if she had been brought to that hospital to be examined in pursuance of the order of a justice.

Under order of justice woman may be detained for medical treatment in hospital.

XVI. Within the said period of twenty-four hours the authorities of such hospital shall cause a certificate, signed by the medical officer who has made such examination, stating (if the fact be so) that on such examination it has been ascertained that such woman has a contagious disease, to be made out and laid before the justice by whom the order was made, or some other justice having the like jurisdiction; and thereupon such justice may, if he thinks fit, order the authorities of such hospital to detain such woman in the hospital for medical treatment until discharged by such authorities, and such order shall be a sufficient warrant to such authorities to detain such woman, and such authorities shall detain her accordingly: provided that no woman shall be detained under any such order for a longer period than three months.

Penalty for refusing to be examined or to conform to rules, or quitting hospital.

XVII. If any woman ordered as aforesaid to be taken to a certified hospital for medical examination refuses to submit to such examination, or if any woman ordered to be detained in a certified hospital for medical treatment refuses or wilfully neglects while in the hospital to conform to the regulations thereof, or quits the hospital without being discharged from the same as aforesaid, every such woman shall be guilty of an offence against this act, and on summary conviction thereof before two or more justices of the peace shall be liable to imprisonment in the case of a first offence, for any term not exceeding one month and in the case of a second or any subsequent offence for any term not exceeding two months.

Penalty for permitting prostitute having contagious disease to resort to any house, &c., for prostitution.

XVIII. If any person, being the owner or occupier of any house, room, or place within the limits of any place to which this act applies, or being a manager or assistant in the management thereof, knowing or having reasonable cause to believe any common prostitute to have a contagious disease, induces or suffers such common prostitute to resort to or be in such house, room, or place for the purpose of prostitution, every such person shall be guilty of an offence against this act, and on summary conviction thereof before two or more justices of the peace shall be liable to a penalty not exceeding ten pounds, or, at the discretion of the justices, to be imprisoned for any term not exceeding three months, with or without hard labour.

Provided that a conviction under this enactment shall not exempt the offender from any penal or other consequences to which he or she may be liable for keeping or being concerned in keeping a bawdy house or disorderly house, or for the nuisance thereby occasioned.

Application of 11 & 12 Vict.

XIX. All proceedings under this act before and by justices shall be had in England according to the provisions of the act of the session of the eleventh and twelfth years of her Majesty (chapter forty-three) (a), "to

(a) See note, p. 55.

facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales, with respect to summary Convictions and Orders," and in Ireland according to the provisions of the Petty Sessions (Ireland) Act, 1851, save so far as those provisions respectively are inconsistent with any provision of this act, and save also that, except where the woman concerning whom an information is laid under this act in the form given in the second schedule desires the contrary, the room or place in which a justice sits to inquire into the truth of the statements contained in any such information shall not be deemed an open court for that purpose, and, except in the case aforesaid, such justice may in his discretion order that no person have access to or be or remain in that room without his consent or permission. 27 & 28 Vict. c. 85. c. 43, and 14 & 15 Vict. c. 93.

XX. The forms of orders and certificate given in the second schedule to this act shall be used for the purposes of this act, with such variations as circumstances may require. Forms in second schedule to be used.

XXI. For the protection of persons acting in the execution of this act, — all actions and prosecutions against any person for anything done in pursuance or execution or intended execution of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within three months after the fact committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in any such action the defendant may plead generally that the act complained of was done in pursuance or execution or intended execution of this act, and give this act and the special matter in evidence at any trial to be had thereupon; and the plaintiff shall not recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court after such action brought, by or on behalf of the defendant; and if a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial is had certifies his approbation of the action and of the verdict Limitation of actions, &c.

XXII. This act shall not come into force in any place mentioned in the said first schedule until a hospital situate within or within fifty miles of the outward limits of such place shall have been duly certified, and notice of its having been so certified been duly given in manner provided by this act. As to time of this act coming into force.

XXIII. This act shall continue in force for three years from the passing hereof, and no longer. Continuance of act.

27 & 28 Vict. c. 85.

## THE FIRST SCHEDULE.

| Names of Places. | Limits of Places. |
|---|---|
| Portsmouth . . | The limits of the municipal borough of Portsm and of the residue of the island of Portsea of the parish of Alverstoke, and of the ship of Landport. |
| Plymouth . . . | The limits of the following parishes; namely, St. Andrew, Charles the Martyr, St. Peter, St. James the Less, Holy Trinity, Christ Church, St. John, } Plymouth. Stoke Damerel, St. James the Great, St. Paul, St. Mary, St. Stephen, } Devonport, Stoke and Morice Town St. George, Stonehouse. |
| Woolwich . . . | The limits of the parishes of Woolwich, Plumst and Charlton. |
| Chatham . . . | The limits of the following parishes; namely, Chatham, Gillingham, St. Nicholas, Rochester, St. Margaret, Rochester, Strood, and Frindsbury, and of the hamlet of Grange, otherwise Gre |
| Sheerness . . . | The limits of the parish of Minster, and o township of Queenborough. |
| Aldershot . . . | The limits of the following parishes; namely, Purbright, Ash, Compton, Pepper Harrow, Frimley, Puttenham, Seal, and Tongham, Elstead, Farnham, Bisley, } in the county of Surrey. Aldershot, Yateley, Crondall, Dogmersfield, Winchfield, Hartley Wintney, Cove, Eversley, Farnborough, Binstead, Bentley, } in the county of Hants. Sandhurst, in the county of Berks. |

| Names of Places. | Limits of Places. |
|---|---|
| Colchester . . | The limits of the following parishes; namely,—<br>St. Botolph.<br>St. Giles.<br>St. Mary at the Wall.<br>Old Trinity.<br>St. Runwald's.<br>St. Peter's. |
| Shorncliffe . . . | The limits of the following parishes; namely,—<br>Cheriton.<br>Hythe.<br>Folkestone. |
| The Curragh . . | The limits of the following parishes; namely,—<br>Kilcullen.<br>Kildare.<br>Ballysax.<br>Great Conwell.<br>Morristown-beller. |
| Cork . . . | The limits of the borough of Cork for municipal purposes. |
| Queenstown . . | The limits of the town of Queenstown for the purposes of town improvement. |

## The SECOND SCHEDULE.

### FORM OF INFORMATION.

} THE information of *C.D.* of , superintendent of police
to wit. } for [*or* medical practitioner, *or as the case may be*],
taken this day of 186 , before the undersigned, one of her Majesty's justices of the peace in and for the said [*county*] of , who says he has good cause to believe that *A.B.* of in the [*county*] of is a common prostitute, and has a contagious disease within the meaning of The Contagious Diseases Prevention Act, 1864, and within fourteen days before the date of this information, that is to say, on day, the day of , was in a public place within the limits of a place to which the said act applies, that is to say, in street, in the parish of , for the purpose of prostitution.

Taken before me the day and year first above mentioned.

(Signed) *L.M.*

### FORM OF NOTICE.

To *A.B.* of

TAKE notice, that an information, a copy whereof is subjoined hereto, has been laid before me, and that, in accordance with the provisions of the act therein mentioned, the truth of the statements therein contained will be inquired into before me, or some other justice, at , on the day of , at o'clock.

You are, therefore, to appear before me, or such other justice, at that place and time, and to answer to what is stated in the said information.

You may appear yourself, or by any person on your behalf.

If you do not appear, you may be ordered, without further notice, to be taken to a certified hospital for medical examination.

If you prefer it, you may go with the constable [*or as the case may be*]

27 & 28 Vict. c. 85.

who serves this notice to the hospital at and submit yourself there to medical examination.

Dated this day of

(Signed) *L.M.*
justice of the peace for

[*Subjoin copy of information.*]

FORM OF ORDER FOR EXAMINATION.

} BE it remembered, that on the day of , in
to wit. } pursuance of The Contagious Diseases Prevention Act, 1864, I, one of her Majesty's justices of the peace in and for the said [*county*] of , do order that *A.B.* of be taken to hospital (being a certified hospital within the meaning of the said act) for medical examination.

(Signed) *L.M.*

FORM OF MEDICAL CERTIFICATE.

To *L.M.*, Esq., and others, her Majesty's justices of the peace for the [*county*] of

IN pursuance of The Contagious Diseases Prevention Act, 1864, I hereby certify that I have this day examined in this hospital *A.B.* of and that she has a contagious disease within the meaning of the said act.

Dated at the hospital this day of 186 .

(Signed) *E.F.*
house surgeon to the hospital
[*or as the case may be*].

FORM OF ORDER FOR DETENTION IN HOSPITAL.

To the authorities of the hospital at

} IN pursuance of The Contagious Diseases Prevention Act, 1864,
to wit. } I, one of her Majesty's justices of the peace in and for the said [*county*] of , do order that *A.B.* of be detained in the hospital at for medical treatment until duly discharged by you, and I do command you to detain her accordingly; and for so doing this shall be your warrant.

Dated this day of 186 .

(Signed) *L.M.*

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## 27 & 28 VICT. C. 104.

27 & 28 Vict. c. 104.

*An Act to extend the Powers of the Public Works (Manufacturing Districts) Act, 1863.* [29th July, 1864.]

26 & 27 Vict. c. 70.

WHEREAS by the Public Works (Manufacturing Districts) Act, 1863 (a), hereinafter called the special act, power was given to charge the consolidated fund with one million two hundred thousand pounds, to be at the disposal of the public works loan commissioners, who were thereby empowered to make (with the authority of an order of the poor law board) advances out of the money for the time being at their disposal, whether under the special act or any other act, for the purpose of enabling local authorities in the counties therein mentioned to give employment to the labouring and manufacturing classes, by execution of works of public utility and sanitary improvement: and whereas sundry advances have

(a) See 26 & 27 Vict. c. 70, p. 581.

been made by the said commissioners in exercise of the powers conferred upon them by the special act, and great benefits have been derived therefrom: and whereas the sums remaining at the disposal of the said commissioners are insufficient to meet the further advances required for effecting the objects hereinbefore mentioned, and it is expedient to make provision for that purpose, and for extending for a further period the power of the poor law board to make orders for loans under the special act: be it therefore enacted by the queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Charge on consolidated fund of 350,000*l.* to be at the disposal of the public works loan commissioners.

I. For the purposes of loans under the special act, the commissioners of her Majesty's treasury may from time to time, by warrant under the hands of two or more of them, cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, to the account of the commissioners for the reduction of the national debt, any further sum or sums of money not exceeding in the whole three hundred and fifty thousand pounds, such money to be applied exclusively under the special act, and to be at the disposal of the public works loan commissioners, in like manner in all respects as money placed at their disposal under the act of the session of the twenty-fourth and twenty-fifth years of her Majesty (chapter eighty) (*a*), and the acts therein recited, subject nevertheless to the provisions of the special act and this act, which provisions shall have full effect, notwithstanding anything in the Public Works Loan Act, 1853 (*a*), to the contrary contained.

24 & 25 Vict. c. 80, incorporated.

II. All the several clauses, powers, authorities, provisoes, enactments, directions, regulations, restrictions, privileges, priorities, advantages, penalties, and forfeitures contained in and conferred and imposed by the said act of the session of the twenty-fourth and twenty-fifth years of her Majesty, chapter eighty (*a*), and the acts therein recited, or any of them, so far as the same can be made applicable, and are not varied by the special act or this act, shall be taken to extend to this act, and to everything to be done in pursuance of this act, and as if the same were herein repeated and set forth.

Power to poor law board to make orders extended.

III. The power of the poor law board to make orders for loans conferred by the special act shall be extended until the first day of January one thousand eight hundred and sixty-five.

Extension of borrowing powers in certain cases.

IV. Where any local board or local or other authority propose to contribute to, purchase, or execute, by means of a loan under the special act and this act, any works of sewerage or water supply, the cost whereof, in addition to and inclusive of the amount of any advances to such local board or local or other authority previously authorised under the special act or this act, is estimated to exceed one year's rateable value of the property assessable within the district in respect of which such loan is required, the poor law board may by their order authorise such local board or local or other authority to borrow, and the public works loan commissioners may thereupon lend, for such works, an amount not exceeding, together with the advances previously authorised under the special act or this act, two years rateable value of the property assessable within the district in respect of which such loan is required.

Local authorities may allow owners to repay expenses of private improvement works in 30

V. Where any local board of health or local or other authority shall execute any private improvement works by means of a loan under the special act or this act, such local board or local or other authority may allow the owner of the premises in respect of which such works shall be undertaken to repay the expenses for which such owner may have become liable, either by virtue of the provisions of the Local Government Act, 1858 (*b*), or of any local act, by equal annual instalments not exceeding

(*a*) See note, p. 126. (*b*) See 21 & 22 Vict. c. 98, p. 457

27 & 28 VICT. c. 104.

thirty, with interest at not less than the rate of three pounds ten shillings per centum per annum upon the sum from time to time remaining unpaid; and the instalments from time to time due shall, together with interest as aforesaid, be recoverable in like manner in all respects as the expenses for which an owner is made liable for private improvement works under the Local Government Act, 1858 (*a*), or any local act in force in the place where such works have been executed respectively.

years, with interest at 3*l.* 10*s.* per cent.

Construction of terms.

VI. The terms used in this act shall be construed in like manner as in the special act, and section twenty-one of that act shall be construed as having included parishes and townships under separate boards of guardians.

Short title.

VII. The special act and this act may be cited and described for all purposes as "The Public Works (Manufacturing Districts) Acts, 1863, 1864."

(*a*) See 21 & 22 Vict. c. 98, p. 457.

# FORMS.

## MORTGAGE OF RATES.

MORTGAGE OF RATES.

We, the [*local authority*] for the [*parish* or *district*] of , in the county of , in consideration of the sum of , [with the sanction of the vestry of the said parish, and with the approval of the commissioners of her Majesty's treasury (testified by the signatures of two of them hereunto affixed)] to us advanced and paid by , the receipt of which said sum of is hereby acknowledged, do by virtue of the powers vested in us by the acts in that behalf, viz., , hereby charge the rates of the said with the payment to the said , his executors, administrators, and assigns of the principal sum of , [by the instalments following, that is to say, the principal sum of (being one part of the said principal sum of ) on the day of next, and the like principal sum of on the day of in every succeeding year until the whole of the said first-named principal sum of is discharged,] together with interest [thereon or on so much thereof as *or* on the principal] which shall from time to time remain due after the rate of per centum, per annum, to be payable half-yearly to the said , his executors, administrators, and assigns.

Given under our hands and under the seal of the for the of , in the county of this day of , one thousand eight hundred and

(L.S.)

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## TRANSFER OF MORTGAGE.

TRANSFER OF MORTGAGE.

I, *A.B.*, of , in consideration of £ sterling already paid to me by *C.D.*, of , do hereby assign and transfer unto the said *C.D.*, his executors, administrators, and assigns, all the principal sum of £ secured to me by a mortgage under the seal of the [*local authority*] for the of , in the county of , dated on or about the day of , and numbered in the register of the said [*if a second transfer, add*, and which mortgage, together with the principal and interest monies secured thereby, was assigned to me by a transfer, dated, &c.], and all interest now due and henceforth to become due in respect thereof, together with the said mortgage security, and all my interest in the rates thereby charged, and all powers and remedies for recovering, receiving, and giving effectual discharges for the said principal and interest monies hereby assigned.

In witness whereof I have hereunto set my hand and seal this day of , 18 .

N.B.—This transfer will generally require to be registered in manner prescribed.

## TERMINABLE ANNUITY DEED.

TERMINABLE ANNUITY DEED.

We, the for the of , in the county of , in consideration of the sum of £ sterling, [with the sanction of the vestry of the said parish and with the approbation of the commissioners of her Majesty's treasury (testified by the signatures of two of them hereunto affixed)], to us advanced and paid by *A.B.*, the receipt whereof is hereby acknowledged, do, by virtue of the powers vested in us by the acts in that behalf, viz. , hereby grant unto the said *A.B.* yearly, during his life,—*or* unto the said *A.B.*, his executors, administrators, and assigns, yearly during the lives of the said *A.B.* and of *C.D.*, of &c., and *E.F.*, of &c., and the life of the survivor of them,—*or* for the term of years [*not exceeding years*] from the day of , the annual sum of £ , to be issuing out of and charged upon the rates of the said of , the first of such annual payments to be made on the day of next.

Given under our hands, and under the seal of the for the of , in the county of , this day of , 18 .

(L.S.)

N.B.—This annuity will generally require to be registered.

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## CONTRACT FOR THE PURCHASE OF LAND.

CONTRACT FOR PURCHASE.

Agreement made the day of , 18 , between *A.B*, of &c., of the one part, and the [*local authority*] of the of , in the county of , of the other part, whereby the said *A.B.* agrees to sell to the said , and the said agrees to purchase at the price of , all, &c. [*describe the property*], which premises are required by the said for the purpose of [*describe it*] for the said of . And it is agreed that the said purchase-money of shall be paid by the said to the said *A.B.* on the day of next at twelve at noon at the office of , at which time and place the purchase is to be completed, and the said is to have possession of the premises. And the said *A.B.* agrees, at his own expense within days from this date, to deliver an abstract of his title to the solicitor of the said , and to deduce a good title to the premises in fee simple free from all incumbrances. And on receiving the said purchase-money, the said *A.B.* and all other necessary parties will convey the premises accordingly to the said , or as they may direct.

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## CONVEYANCE ACCORDING TO 8 VICT. c. 18.

CONVEYANCE.

I, , of , in consideration of the sum of duly paid to me [*or as the case may be*, into the bank] pursuant to the acts in that behalf, viz., , by the [*local authority*] for the of , in the county of , appointed and constituted under the provisions and by virtue of the said acts, do hereby convey to the said , their successors and assigns, all [*describe the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said acts empowered to convey, to hold the premises to the said their successors and assigns for ever, according to the true intent and meaning of the said acts. In witness whereof I have hereunto set my hand and seal this day of , one thousand eight hundred and .

(L.S.)

## CONVEYANCE IN CONSIDERATION OF A RENT-CHARGE ACCORDING TO 8 VICT. c. 18.

CONVEYANCE, RENT-CHARGE.

I, , of , in consideration of the rent-charge to be paid to me, my heirs and assigns, as hereinafter mentioned, by the [*local authority*] for the of , in the county of , appointed and constituted under the provisions and by virtue of the acts in that behalf, viz., , do hereby convey to the said , their successors and assigns [*describe the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof. To hold the said premises to the said , their successors and assigns, for ever, according to the true intent and meaning of the said acts. They the said their successors and assigns, henceforth yielding and paying unto me, my heirs and assigns, the clear yearly rent of by equal [quarterly *or* half-yearly, *as agreed upon*] portions on the day of , and the day of , in every year, clear of all taxes and deductions, the first payment thereof to be made on the day of next. In witness whereof I hereunto set my hand and seal this day of , one thousand eight hundred and

(L.S.)

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## CONTRACT FOR WORKS.

CONTRACT FOR WORKS.

Articles of agreement, made the day of , one thousand eight hundred and , between , (hereinafter called the contractor) for himself, his heirs, executors, and administrators, of the one part, and the [*local authority*] for the of in the county of , of the other part.

WHEREAS, the said [after giving days public notice expressing the intention of entering into this contract], has accepted the tender of the said , to execute the works described in the schedule hereunto annexed, subject to the terms and provisions hereinafter expressed.

Now, the said , for himself, his heirs, executors, and administrators, doth hereby covenant and agree with the said and their successors, that he the said contractor will, in a good, substantial, and workmanlike manner, and with materials sufficient and proper, of their several kinds, execute, perform, and complete all and singular the works mentioned in the specification hereto annexed, or thereby or by this contract implied, or to be reasonably inferred, in and about , according to the said specification, and to the plan, and drawings, prepared by , and according to such working and explanatory drawings and instructions as may from time to time be furnished by the surveyor for the time being of the said [*local authority*]: the several portions of the said works to be respectively finished and completed on or before the times respectively mentioned in the said specification, and the whole of the said works to be finished and completed, and to be cleared of all scaffolding and rubbish, and other impediments, on or before the day of , and the said works to be begun, proceeded with and completed to the satisfaction of the said surveyor of the said , to be testified by a writing or certificate under his hand.

That if any of the materials used, prepared, or intended to be used by the said contractor shall be considered by the surveyor for the time being of the said , as unsound or improper, the said contractor will, upon notice in writing given by the said surveyor, reject and remove the same from the said ground: and in default of such rejection and removal

CONTRACT FOR WORKS.

within three days after such notice, it shall be lawful for the said surveyor to cause the same to be removed at the expense and risk of the said contractor, and all expenses thereby occasioned shall either be deducted out of any monies then or thereafter due to him from the said , or shall be recoverable by them of the said contractor as liquidated damages.

That if the said surveyor shall be dissatisfied with any master, foreman, or workman, who shall be employed by the said contractor in the performance of the said works, and shall give notice in writing to that effect to the said contractor, he shall, within forty-eight hours afterwards, discharge from the works such master, foreman, or workman: and if the said contractor shall neglect so to do, it shall be lawful for the said surveyor to discharge such master, foreman, or workman, and to hire and employ any other person in his stead, at the expense of the said contractor; such expense shall be deducted recoverable as aforesaid.

That if the said surveyor shall consider any part of the work unsound, or improperly executed, the said contractor, on notice in writing given by the said surveyor thereof, shall cause such work to be immediately removed, and properly re-executed, without any extra charge whatever: and if the said contractor shall neglect so to remove and re-execute such work, it shall be lawful for the said surveyor to cause the same to be removed and re-executed at the expense of the said contractor; such expense to be deducted or recoverable as aforesaid.

That if the said shall think proper, at any time before the said works are completed, to make any alterations, additions, or omissions in or in the same, and their surveyor shall give written instructions, signed by him, to the said contractor for such alterations, additions, or omissions; then, but not otherwise, the same shall be done or made by the said contractor: and any alterations, additions, or omissions, if the price be not stipulated in the said specification, shall be measured, or estimated and valued by the said surveyor; and the amount thereof, according to the price or value, shall be added to or deducted from the sum hereinafter mentioned.

That any loss or damage which may happen to the said works, or the materials or implements therein used during the progress of these works from any cause whatever, shall be borne and made good by the said contractor at his own expense.

That, during inclement weather, the said contractor, whenever and so long as thereto required by the said surveyor, will suspend the performance of the works, and effectually cover up and protect the same from injury by the weather.

And the said do hereby for themselves and their successors, covenant with the said contractor, his executors and administrators, that the said , or their successors, will pay unto the said contractor, his executors, administrators, or assigns, the sum of , being the price agreed upon, in manner following: that is to say, the sum of per cent. per month on the amount of the work done as it proceeds, the same to be ascertained by the certificate of the said surveyor, and the remainder of the said sum to be paid within three calendar months after the said surveyor shall certify that all the said erections, buildings, works, and premises, have been completely erected, done, and finished to his satisfaction: and it is agreed that the certificate of the said surveyor for the time being shall be final and conclusive between the said parties as to the progress, nature, quality, or completion of the said works, and in all other matters and things relating to the premises.

That if the said contractor shall, from bankruptcy, insolvency, or any cause whatever, be prevented or delayed in proceeding with the said works, according to this contract, or shall not proceed therein to the entire satisfaction of the said surveyor, it shall be lawful for the said to rescind this contract by giving to the said contractor notice in writing, signed by their clerk or surveyor, and also to employ any other builder

workman, or other person, by contract, measure, and value, day work or otherwise, to proceed with the said works, and to complete the same: and on the service of the said notice, this contract shall become void as to the said contractor; but without prejudice to any right of action which the said contractor may be subject to for any neglect in not proceeding with the said works pursuant to this contract: and the amount then already paid to the said contractor by the said shall be considered to be the full value of the works executed by him, and the said contractor shall thereupon be paid such a sum only as he may be entitled to, the same to be ascertained by such certificate as aforesaid: and the materials, whether prepared or unprepared, which may be at that time on the premises, shall become the property of the said without further payment for the same: and the said contractor shall not in any manner prevent, hinder, or molest the said or the persons employed by them, in proceeding with and completing the said works, and using such materials as aforesaid.

That the giving to or leaving at the usual or last place of abode of the said contractor, his executors or administrators, or the giving to his or their foreman or superintendent of the works, of any notices, instructions, or drawings, to be given or furnished under this contract, shall be deemed good service or delivery thereof to the said contractor, his executors or administrators.

That if this contract be not duly performed, the said shall pay to the said the sum of , as and for liquidated damages.

In witness whereof the said contractor has hereunto set his hand and seal the day and year first above written.

Signed, sealed, and delivered by the above-named , in the presence of

The common seal of the said was hereunto affixed at a meeting of the said , held on the day of , the date thereof, by , in the presence of

## BOND FOR SECURING THE PERFORMANCE OF CONTRACT.



Know all men by these presents, that we , are held and firmly bound to in the sum of of lawful money of Great Britain, to be paid to the said or his certain attorney, executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves and each of us, and any two of us, our and each of our and any two of our heirs, executors, and administrators, jointly, severally, and respectively, firmly by these presents: sealed with our seals. Dated this day of , one thousand eight hundred and :

WHEREAS, by a certain contract or agreement, bearing even date with the above obligation, and made between the above-bounden , of the one part, and the [*local authority*] of the of , in the county of , of the other part, the said contracted with the said to execute and perform the works therein mentioned in the manner and by the time therein specified, and subject to such terms, provisions, and stipulations as in the said contract or agreement are particularly mentioned and set forth, and as on reference thereto will more fully appear. Now the condition of the above obligation is such, that if the above-bounden , his executors or administrators, do and shall well and truly perform, fulfil, and keep all and every the covenants, clauses, provisoes, terms, and stipulations in the said recited contract or agreement

BOND.

mentioned or contained, and on his part to be observed, performed, fulfilled, and kept, according to the true intent and meaning thereof, then the above bond or obligation shall become void, or else shall be and remain in full force and virtue.

Signed, sealed, and delivered by the above-bounden , in the presence of }

[N.B.—Separate forms, for the use of burial boards, by the author, are published by W. Maxwell, 32, Bell-yard.]

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## PUBLIC HEALTH AND LOCAL GOVERNMENT ACT.

### Instructions to Local Boards.

*Division of Districts into Wards. Minute as to Details Required.*

Local Government Act Office,
Richmond Terrace, Whitehall.

*Division Into Wards.*

DIVISION OF PARISHES INTO WARDS.

In the case of any proposed division into wards, information should be furnished by the local board to this office, upon the following points:—

A correct plan will be required of the entire district. This may be furnished by an ordnance sheet, or tracing of parish, tithe, or other authentic map. The boundary of the district should be shewn, and the proposed boundaries of the wards clearly traced on the map; to be defined by letters from point to point, as A, B, &c. A written description of the boundaries should also be furnished, commencing at point marked A, and clearly defined.

The map should have a title distinctly written thereon, and the wards should have names or numbers.

The area, rateable value and population of each ward, should be set forth as nearly as is practicable; and the number of members proposed to serve for each ward should be stated.

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*The Local Government Act*, 1858, *provides* (*section* 16) *that new boundaries may be defined and set out for the purposes of the act. Section* 24 *provides for the division of districts into wards.*

### INSTRUCTIONS AS TO SETTING OUT NEW BOUNDARIES AND DIVISIONS INTO WARDS.

*Setting Out New Boundaries.*

INSTRUCTIONS AS TO SETTING OUT NEW BOUNDARIES AND DIVISIONS INTO WARDS.

In devising new boundaries care should be taken to enclose an area as compact as practicable.

Natural divisions, such as rivers, brooks, and smaller streams, constitute useful and readily defined boundaries.

Roads, footwalks, and known and defined township, parish, or county boundaries are also readily recognised, and may be adopted, if suitable.

New boundary-lines should be commenced at some well-known place, and from such place should be defined from point to point. The several angles should be marked by letters or figures.

A full and clearly-written description of the proposed boundary should accompany the plan. The description should commence at (A), some easily recognisable place on the south of the proposed district, thence describe westward to (B), and so on to the completion of the boundary. If a field-fence is taken, state the number of such field on the tithe map,

INSTRUCTIONS AS TO SETTING OUT NEW BOUNDARIES, ETC.

or the tenant or owner's name. The description should be clear, unmistakeable, and as short as is consistent with accuracy of description. The name of the proposed district should be distinctly printed on the map, with the area in acres.

*Division Into Wards.*

Division into wards is for purposes of election of members to serve on the local board.

A map of the entire district, with name of district clearly printed thereon, must be provided, on which the main boundary is shewn.

The proposed division into wards must be by lines, clearly defined on the map of the district; brooks, roads, footwalks, streets, fences, or other easily recognisable lines of division may be adopted.

Define such lines on the map by a margin of colour.

Describe the proposed boundary-lines in writing, fixing and defining the several points by letters (A, B), or by figures (1, 2), and so on.

Print on the map the name or number of each ward.

Give the relative areas, population, and rateable value of each ward.

State the number of members proposed to be elected for each ward. The number must be divisible by 3, as one third of the members must retire each year, but may be re-elected.

A duplicate map or tracing must be provided by the applicants, in each case of setting out new boundaries or division into wards, such map or tracing to remain with this office, for future reference.

Local Government Act Office, Whitehall, August, 1864.

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*Local Government Act*, 1858.

## PLANS OF PROPOSED WORKS.

*Town Improvement Works.*

PLANS OF PROPOSED WORKS.

Plans, sections, and details are in all cases necessary to the preparation of reliable estimates, either for new works or for alterations and extensions of existing works. Such plans, sections, and details, together with estimates and a report describing the proposed works, must be submitted by any local board in applying for the secretary of state's sanction to a loan.

Duplicates of all the documents submitted, will be required, for filing in this office.

Applications for sanctions to loans for executing portions of works can only be entertained when they form part of a well devised general scheme. The execution of works may however proceed in sections, as local boards determine; and when a general scheme is in the first instance devised, there will be no objection to sanction necessary loans for the execution of the work by instalments.

Tracings of plans and sections will be accepted as duplicates.

Local Government Act Office, 8, Richmond Terrace, Whitehall, 1864.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 98, *s.* 32) (a).

## BYELAWS AS TO LEVEL, WIDTH, &c., OF NEW STREETS, AND SEWERAGE THEREOF.

SEWERAGE, &c., OF NEW STREETS.

Byelaws made by the Local Board of (b),

(*A*) "*With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof.*"

Width and level of new streets.

I. Every new street * shall be laid out and formed of such width and at such level as the local board shall in each case determine.

Every new street, being a carriage road, shall be laid out and formed at least thirty-six feet wide, and the local board shall determine in each case what proportion of the width of such street shall be laid out as carriage-way and footway respectively.

Every new street, not being a carriage road, shall be laid out and formed at least eighteen feet wide, and there shall be one entrance at least to every such street, of the full width thereof, and open from the ground upwards: provided always, that whenever any street shall exceed the length of 100 feet it shall be at the option of the local board to determine whether such street shall or shall not be laid out and formed of sufficient width for a carriage road.

Modification of width of streets in certain cases.

II. In any case in which an open space shall be left along one or both sides of any new street throughout its whole length in front of the houses, or in which any new street shall not be the principal or only approach to dwelling-houses, the local board may allow of a reduction of the widths herein specified for such streets, whether carriage roads or not, as they shall see fit.

The width of new streets shall be taken to mean the whole space dedicated to the public, exclusive of any steps or projections therein, and measuring at right angles to the course or direction of such streets.

Height of buildings in new streets.

III. No building shall be erected on the side of any new street which shall exceed in height the distance from the front of such building to the opposite side of such street; nor shall the height of any building so erected be at any time subsequently increased so as to exceed such distance.

In estimating the height of buildings, the measurement shall be taken from the level of the centre of the street, immediately opposite the building, up to the parapet or eaves of the roof.

Drainage of new streets.

IV. The proposed level and width of any new street having been approved by the local board, the local surveyor shall specify the depth and inclination, form, size, materials, and other particulars of the sewers and their appurtenances, according to which the works for the proper drainage of such street, and of the adjoining properties, shall be carried out.

Construction of new streets.

V. The mode of construction of every new street, and the materials to be employed, shall be subject to the approval of the local board.

(*B*) "*With respect to the structure of walls of new buildings, for securing stability, and the prevention of fires.*"

Thickness of walls.

VI. The walls of every new building shall be constructed of such thicknesses as shall be approved by the local board, and the foundations shall rest on solid ground, or upon concrete, or upon other solid substructure.

Materials of external walls.

VII. The external and party or side walls of every new building shall be constructed of brick, stone, or other hard and incombustible substances,

* See the Interpretation Clause of the Public Health Act, 1848 [p. 348], for the meaning assigned to the word "street."

(a) See this section, p. 466. (b) See notes, p. 52.

unless the local board shall otherwise allow in cases in which it may appear to them that no danger would exist of the spread of fire. SEWERAGE, &c., OF NEW STREETS.

VIII. Any external or party wall of a new building the roof or gutter of which shall adjoin any other house or building shall be carried up above such roof or gutter to form a parapet of not less than 12 inches in height, measured at right angles to the slope, and above the covering of such roof, or above the highest part of such gutter. Walls carried through roofs.

IX. No joists, beams, or other woodwork fixed in or upon any external or party-wall,—except beams, or bressummers and story-posts under the same, and frames of doors and windows of shops,—shall be brought within four inches at least of the external face of such wall, unless with the previous sanction of the local board. Woodwork in external or party-walls.

X. The roof or flat of every new building, and every gutter, dormer, and other work or construction connected therewith, except the doors, door-frames, windows, and window-frames of such dormer and other construction, shall be formed of or externally covered with incombustible materials, except in special cases when otherwise allowed by the local board. Roofs.

XI. The chimneys and flues of every building shall be constructed in such mode, and of such materials and dimensions, as shall be approved by the local board. All hearths and slabs shall be properly bedded in incombustible materials. No timber or woodwork shall be placed within nine inches of the inside face of any chimney or flue, unless the brickwork or stonework of such chimney or flue shall be properly rendered. No wooden plugs shall be driven nearer than six inches to the inside of any chimney or flue. Chimneys and flues.

No openings shall be made in any chimneys or flues for any purpose, nor shall any pipe be fixed in any new building for conveying smoke, heated air, steam, or hot water, except in the manner approved by the local board.

XII. The following buildings and works shall be exempt from the operations of these byelaws:— Exempted buildings.

Common gaols, prisons, houses of correction, and places of confinement connected therewith, under the inspection of the inspectors of prisons. County lunatic asylums, sessions-houses, and other public buildings belonging to or occupied by the justices of the peace of the county, city, or borough in which the same are situate. Buildings belonging to any canal, dock, or railway company, and used for the purposes of such canal, dock, or railway, under the provisions of any act of parliament. All buildings, not being public buildings, and not exceeding in height 30 feet, as measured from the ground floor, and not exceeding in extent 125,000 cubic feet, wholly in one occupation, and distant at least 30 feet from the opposite side of the nearest street or alley, whether public or private, and at least 30 feet from the nearest buildings, and from the ground of any adjoining owner. All buildings not exceeding in extent 216,000 cubic feet, and not being public buildings, and distant at least 50 feet from the opposite side of the nearest street or alley, whether public or private, and at least 50 feet from the nearest buildings, and from the ground of an adjoining owner.

(*C*) *"With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings."*

XIII. Every building to be erected and used as a dwelling house shall have in the rear, or at the side thereof, an open space exclusively belonging thereto, to the extent at least of 150 square feet, free from any erection thereon above the level of the ground. And the distance across such open space between every such building and the opposite property at the rear or side shall be 10 feet at least; if such building be Space about buildings.

SEWERAGE, &C., OF NEW STREETS.

two stories in height above the level of such open space, the distance across shall be 15 feet; if such building be three stories, it shall be 20 feet; if more than three stories, 25 feet. When, however, thorough ventilation of such open space is secured, or when on the rebuilding of houses within the town these dimensions cannot be adhered to without considerable sacrifice of property, they may be modified in special cases at the discretion of the local board.

Space not to be built upon.

XIV. Wherever any open space has been left belonging to any building, when the sanction of the local board has been obtained for its erection, such space shall never afterwards be built upon without the approval of the local board.

Height of rooms.

XV. In any building to be erected, every habitable room, except rooms in the roof, shall be in every part 8 feet in height at the least from the floor to the ceiling, and every habitable room in the roof of any such building shall be at the least 8 feet in height from the floor to the ceiling throughout not less than one-half the area of such room.

Windows.

XVI. Every habitable room shall have at least one window, and the total area of window or windows, clear of the sash-frame, shall be at the least one-tenth of the area of every such room, and the top of one at least of such windows shall be not less than 7 feet 6 inches above the floor, and the upper half at least shall be made to open the full width.

Special ventilation of small rooms.

XVII. Every habitable room hereafter built of less area than 100 superficial feet, and without a fireplace, shall be provided with special means of ventilation, by air-shaft or otherwise, as the local board may determine.

Ventilation of public buildings.

XVIII. Every new public building shall be supplied with means of ventilation, to be approved by the local board.

(*D*) "*With respect to the drainage of buildings, to waterclosets, privies, ashpits, and cesspools in connexion with buildings, and to the closing of buildings unfit for human habitation, and to prohibition of their use for such habitation.*"

Approval of materials.

XIX. All houses and buildings which in the opinion of the local board are without sufficient drainage shall be drained in the most effectual manner which may be practicable; and the mode of drainage, and all materials intended to be used in the construction of the drainage of buildings, shall be subject to the approval of the local board.

Construction of house drainage.

XX. The drains of all houses and buildings shall consist of glazed stoneware or fire-clay pipes, or other equally suitable material, and shall be connected with the sewers in such manner as the local surveyor shall direct. They shall be laid with water-tight joints, and beneath houses they shall be imbedded in and surrounded with well puddled clay. No right angle junctions, whether vertical or horizontal, shall be formed.

Ventilation of house drainage.

XXI. Proper ventilation shall be provided in the drainage of every house, by means of the rain-water pipe, by special pipe or shaft, or by such other method as the local surveyor may direct. All other inlets to the house drains shall be properly trapped.

Drainage of subsoil, and prevention of damp.

XXII. The house drainage shall be so constructed, either with additional earthenware pipe drains or otherwise, as to drain the subsoil of the premises, whenever the dampness of the site appears to the local board to render this necessary. And all rain-water shall be so drained or conveyed from the roofs of buildings as to prevent its dripping on to the ground and causing dampness in the walls.

Water-closets and privies.

XXIII. The situation, dimension, materials, and construction of every water-closet and privy shall be subject to the approval of the local board.

Every watercloset or privy shall have an opening, as near to the top as practicable, communicating directly with the external air, or shall be otherwise furnished with sufficient means of ventilation.

SEWERAGE, &c., OF NEW STREETS.

XXIV. No cesspool shall be allowed except when unavoidable, when it shall be constructed in such situation and in such manner as the local board shall direct. It shall in every case be made water-tight. It shall be arched or covered over, and a pipe or shaft for ventilation shall be carried up from it, or from the drain communicating with it from the watercloset or privy. Cesspools.

Ashpits.

XXV. The situation, dimensions, materials, and construction of every ashpit shall be subject to the approval of the local board, and shall be of sufficient size to contain the ashes and dry refuse likely to accumulate between the prescribed visits of the scavenger.

Certificate of completion of new houses.

XXVI. No new house shall be occupied until the house drainage has been made and completed, nor until such house has been certified by the local board, or their officer authorised to give such certificate, after examination, to be in every respect fit for human habitation, in their or his opinion.

Buildings unfit for human habitation.

XXVII. In any case where it is certified to the local board by the officer of health of the district, if any, by the local surveyor, by the inspector of nuisances, or by any two medical practitioners, that any building, or part of a building (*a*), is unfit for human habitation, the local board may, by their order, affixed conspicuously on the building, or part of the building, declare that the same is not fit for human habitation, and shall not, after a date therein to be specified, be inhabited; and any person who, after the date or time mentioned in such order, lets or occupies, or continues to let or occupy, or knowingly suffers to be occupied, such building or part of a building, shall be liable for every such offence to a penalty, not exceeding twenty shillings, for every day during which the same is so let or occupied: provided always, that if at any time after such order made the local board shall be satisfied that such house has become or been rendered fit for human habitation, they may revoke their said order, and the same shall thenceforward cease to operate.

(*E*) "*As to the giving of notices; as to the deposit of plans and sections, by persons intending to lay out streets or construct buildings; as to inspection by the local board; and as to the power of the local board to remove, alter, or pull down any work begun or done in contravention of such byelaws.*"

Notices, plans, &c., of new streets.

XXVIII. Every person who shall intend to make or lay out any new street, whether the same shall be intended to be used as a public way or not, shall give one month's notice to the local board of such intention, by writing delivered to the local surveyor, or left at his office, and shall at the same time leave or cause to be left at the said office a plan and section of such intended new street, drawn to a scale of not less than one inch to every forty-four feet; and every such plan shall show thereon the names of the owners of the land through or over which such street shall be intended to pass; the level, width, direction, the proposed mode of construction, the proposed name of such intended new street, and its position relatively to the streets nearest thereto; the size and number of the intended building lots, and the proposed sites, height, class, and nature of the buildings to be erected therein, and the proposed height of the division and fencewalls thereon; and shall contain the name and address of the person intending to lay out such new street, and be signed by him or his duly authorised agent.

Every such section shall show thereon the level of the present surface of the ground above some known fixed datum, the level and rate or rates of inclination of the intended new street, the level and inclinations of the

(*a*) Erected since the constitution of the district. See *Burgess* v. *Peacock*, note, p. 78 [A.N.].

SEWERAGE, &c., OF NEW STREETS.

streets with which it will be connected, and the level of the lowest floors of the intended new buildings.

Notices, plans, &c., of new buildings.

XXIX. Every person who shall intend to erect any new building shall give a fortnight's notice to the local board of such intention, by writing delivered to the local surveyor, or left at his office, and shall, at the same time, leave, or cause to be left at the said office detail plans and sections of every floor of such intended new building, drawn to a scale of not less than one inch to every eight feet, showing the position, form, and dimensions of the several parts of such building, and of the watercloset, privy, cesspool, ashpit, well, and all other appurtenances; and such plans and sections shall be accompanied by a description of the materials of which the building is proposed to be constructed, of the intended mode of drainage, and means of water-supply.

A block plan shall be left at the same time, drawn to a scale of not less than one inch to every forty-four feet, showing the position of the buildings and appurtenances of the properties immediately adjoining, the width and level of the street, the level of the lowest floor of the intended building, and of the yard or ground belonging thereto. The plan shall show also the proposed lines of house drainage, and their size, depth, and inclination.

Inspection of works by local surveyor.

XXX. The local surveyor shall inspect any works or buildings in progress of construction at any reasonable time that he may think fit, or that he may be required to do so by the local board; but the person laying out the work, or the builder, shall give two days notice in writing to the local surveyor before the commencement of such work, and before any foundations of new buildings, or any sewers or drains, are covered up; and the like notice shall be given after the works have been completed which may have been required by the surveyor to be done in amendment of any irregularity, and before such works shall be covered up.

Notice by local surveyor in case of irregularity.

XXXI. If in doing any work, or erecting any building, anything is done contrary to the rules herein contained, or anything required by those rules is omitted to be done; or if the local surveyor on surveying or inspecting any building or work finds that the same is so far advanced that he cannot ascertain whether any thing has been done contrary to the rules herein contained, or whether anything required by such rules has been omitted to be done;

The local surveyor shall, within six hours after such survey or inspection, give to the builder or person engaged in erecting such building, or in doing such work, notice in writing, requiring such builder or person, within forty-eight hours from the date of such notice, to cause anything done contrary to the rules herein contained to be amended; or to do anything required to be done by such rules, but which has been omitted to be done; or to cause so much of any building or work as prevents such local surveyor from ascertaining whether anything has been done, or omitted to be done, as aforesaid, to be to a sufficient extent cut into, laid open, or pulled down.

Notice of completion of works and buildings.

XXXII. Within one month after any work or building of which notice was given has been completed the builder or person by whom such work has been done shall give notice to the local surveyor thereof, and the surveyor shall forthwith proceed to survey such building or work, and shall report to the local board thereon.

Penalties for not giving notices, &c.

XXXIII. The local board shall by their order approve or disapprove of proposed new works or buildings within the times severally specified herein for the deposit of notices thereof; but if the owner or person intending to construct any new street or erect any new building fail to give the notices herein required, or proceed to the execution of any of the works before the expiration of such notices, without the approval of the local board, or if any owner or person shall construct or cause to be constructed any works, or do any act, or omit to do any act or comply

with any requirement of the local board, or shall make any alteration in any works after they have been completed, whether in new or existing buildings, contrary to the provisions herein contained, he shall be liable for each offence to a penalty not exceeding five pounds; and he shall pay a further sum, not exceeding forty shillings, for each and every day which such works shall continue or remain contrary to the said provisions; and the local board may, if they shall think fit, cause such work to be removed, altered, pulled down, or otherwise dealt with, as the case may require, and the expenses incurred by them in so doing shall be repaid by the offender, and be recoverable from him in a summary manner, as provided by the Public Health Act, 1848. SEWERAGE, &C., OF NEW STREETS.

XXXIV. If any workman, labourer, servant, or other person employed in or about any new works, wilfully, and without the privity or consent of the owner or person causing such work to be done, does anything in or about such works contrary to the provisions herein contained, he shall, for each such offence, incur a penalty not exceeding fifty shillings. Penalty on workmen, &c.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 88, *s.* 45) (*a*).

## BYELAWS FOR THE REGULATION OF SLAUGHTER-HOUSES.

NOTE.—*These byelaws should be preceded by a reprint of sections* 125 *to* 131, *both inclusive, of the Towns Improvement Clauses Act*, 1847, (*b*) *incorporated with the Local Government Act*, 1858, *by the* 45*th section of that Act.*

Byelaws made and ordained by the local board of for the regulation of slaughter-houses, pursuant to the powers and provisions contained in the Local Government Act, 1858. REGULATION OF SLAUGHTER HOUSES.

I. Every slaughter-house in the said district shall be provided with water and ventilated to the satisfaction of the officer of health of the local board, and shall be thoroughly whitewashed with quicklime at least twice in each year, namely between the 1st and 10th of March, and the 1st and 10th of September. Water, ventilation, and cleansing.

II. Every occupier of a slaughter-house shall provide and keep a sufficient number of tubs, boxes, or vessels, with tight and close-fitting covers thereto, constructed to the satisfaction of the local board, for the purpose of receiving and conveying away all manure, garbage, and filth, and shall in all cases, except as hereinafter provided, immediately after the killing and dressing of any cattle in such slaughter-house, cause all such manure, garbage, and filth to be placed in such tubs, boxes, and vessels; and such tubs, boxes, and vessels, together with their contents, shall be removed to such place, at such interval of time, with such precautions, and within such hours, as may be, from time to time, fixed by the local board; and all the blood arising from the slaughtering of cattle shall be put into separate tubs or vessels with close-fitting covers, and shall be carried away from the slaughter-house without delay, and shall not be permitted to flow in the channel or sewer, or open street: provided always, that no blood shall be put into the same tubs or vessels in which the manure, garbage, or other filth are put: provided also, that the manure, garbage, and other filth shall not be kept or carried away in such tubs, boxes, and vessels, where impermeable covered drains are provided for carrying away the same. Removal of garbage, filth, &c.

III. All the tubs and vessels which are used for the removal of any manure, garbage, and filth, and all the tubs and vessels which are used for the removal of blood from any slaughter-house, shall, immediately after being used for such removal, be thoroughly emptied, cleansed, and Cleansing of utensils, &c.

(*a*) See this section, p. 471. (*b*) See these sections, p. 229.

REGULATION OF SLAUGHTER-HOUSES.

purified, and the floor of such slaughter-house shall then be also effectually scoured and cleansed; and the whole shall generally be kept in such a condition that neither within the slaughter-house, nor without it, shall there be any offensive smell arising therefrom.

Removal of skins, &c.

IV. Every occupier of such slaughter-house shall remove or cause to be removed from such slaughter-houses the hides and skins of any cattle that shall be slaughtered therein within two days next after such cattle shall have been slaughtered.

Diseased animals.

V. The occupier of any such slaughter-house shall not slaughter or suffer to be slaughtered therein any diseased or unsound cattle.

Information to be given of such animals.

VI. Every occupier of such slaughter-house, in case of any diseased or unsound cattle being brought to such slaughter-house, shall forthwith give information thereof to the local board, or to their authorised officer on that behalf.

No privy to be near, or pigs to be kept.

VII. No occupier of any slaughter-house shall build or permit any access or opening to any privy or middenstead from such slaughter-house to be made, or if now made, to remain; nor shall any such occupier permit or suffer any pigs or other animals to be kept in any slaughter-house except for the purpose of being fasted previous to killing.

Cattle not to be kept.

VIII. No occupier of any slaughter-house shall keep or retain any cattle in such slaughter-house for a longer period than 72 hours previous to the slaughtering of the same.

Cleansing after slaughtering.

IX. The occupier of every slaughter-house shall cause the same to be thoroughly washed and cleansed within three hours after the completion and slaughtering and dressing of any cattle therein on any day during which any such slaughtering or dressing shall take place.

Ferocious dogs, not to be kept.

X. The occupier of any such slaughter-house shall not keep or permit to be kept in such slaughter-house or premises any ferocious dog, unless such dog shall be securely fastened or muzzled.

Repairs.

XI. Every occupier of a slaughter-house shall, on the request of the local board, or of their authorised officer in that behalf, forthwith cause all repairs in or concerning such slaughter-house which such occupier shall be required by such request as aforesaid to perform, to be executed to the satisfaction of the said board, or of their authorised officer, as the case may be.

Inspectors to have access to premises.

XII. All members and authorised officers of the local board shall have free access to every slaughter-house and to every part thereof at any time when they shall demand admission for the purpose of inspecting and examining into the condition thereof, with regard to the cleanliness, ventilation, and management thereof.

Slaughter house to be designated.

XIII. The occupier of every registered slaughter-house shall cause the word "slaughter-house," together with the number corresponding with the number under which such slaughter-house shall be registered in the register kept for that purpose by the local board, to be painted or otherwise inscribed to the satisfaction of the said board on, over, or adjoining to the outside of the door or entrance to such slaughter-house, and there kept and continued, free from any obliteration or defacement.

Byelaws to be affixed on premises.

XIV. The occupier of every slaughter-house shall cause a copy of these byelaws, written or printed in large characters, to be affixed in some conspicuous place of such slaughter-house, to the satisfaction of the local board, and of their authorised officer, and to be at all times kept and continued in such place; and in case such copy of these byelaws or any part thereof should be obliterated or defaced, such occupier shall forthwith affix in the same conspicuous place as aforesaid another copy of the said byelaws in lieu thereof.

Penalty for neglect of byelaws.

XV. Every occupier of any slaughter-house within the said borough who shall in any respect fail to comply with either of the foregoing byelaws, or in anywise offend against the same, or who after due notice from the local board, requiring such slaughter-house to be whitewashed, purified, and

cleansed, shall neglect so to do, or who shall at any time refuse to allow any officer or servant of the local board an inspection of the premises, shall forfeit and pay for each and every offence any sum not exceeding the sum of 5*l.*, and a further penalty of 10*s.* for every day during the continuance of the offence, after written notice thereof from the local board, the said penalties to be recovered and applied as the statute directs. REGULATION OF SLAUGHTER-HOUSES.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 98, *s.* 32) (*a*).

## BYELAWS WITH REGARD TO THE PREVENTION OF NUISANCES ARISING FROM SNOW, FILTH, ETC., AND THE KEEPING OF ANIMALS.

Byelaws made by the local board of with regard to the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and the keeping of animals. PREVENTION OF NUISANCES.

I. All occupiers of any premises within the district shall whitewash, wash, or otherwise cleanse and keep free from filth, the interior of such premises, so that no offensive smell shall proceed from the same. Cleansing of premises.

II. All occupiers of any yards, places or premises where horses, cattle, pigs, or other animals are kept, shall provide upon such premises, to the satisfaction of the local board, or their authorised officer, a covered receptacle for dung, manure, and all other solid refuse arising on the premises, and a trapped drain for carrying off all urine and other liquid drainage from such premises, or into such receptacle; and if no means for the removal of such dung, manure, and other solid refuse be provided by the local board, every such occupier shall himself remove all such dung, manure, and other refuse, at such interval of time, with such precautions, and within such hours, as may from time to time be fixed by the local board. Removal of manure where animals kept.

III. No person shall deposit, throw, or allow to run, lodge, or accumulate upon the surface of any street, square, court, highway, or place, or on any waste or unoccupied ground, or in any uncovered drain, ditch, watercourse, sink, pond, or other collection of water, or expose or cause to be exposed in any other manner whatever within the district any animal or vegetable matter, fish, offal, ordure, blood, bones, manure, shells, broken glass, china or earthenware, dust, ashes, house refuse, waste, refuse, or runnings from any manufactory, or other offensive or noxious matter whatever. Deposit of refuse prohibited.

IV. Provided always, that no person shall be liable to a penalty for throwing or depositing any sand or ashes, in the time of frost, upon any footway to prevent accidents; or any manure or other materials, in the time of frost, upon the course of water-pipes, in order to prevent the water therein from being frozen; or any clean litter or other materials, in order to prevent noise in case of sickness. Ashes may be laid down during frost.

V. Provided also, that no person shall be liable to any penalty for throwing or depositing on any street, square, court, highway, alley, footway, or other public passage, any rubbish, dirt, or materials used in or occasioned by the building, re-building, or repairing of any house or building, in cases where such person shall, to the satisfaction of the authorised officer of the local board, enclose the space where such deposit is made within a sufficient fence; and shall where directed so to do by such officer as aforesaid lay down, with proper materials, a sufficient temporary footway for foot passengers communicating with the foot causeway at each end thereof, and fenced off from the remaining portion of the street or thoroughfare by a good or sufficient rail; the whole enclosure and temporary footway to be so constructed as to leave sufficient Provision for building materials, &c.

(*a*) See this section, p. 466.

PREVENTION OF NUISANCES.

room for the passage of coaches, waggons, and the ordinary traffic through the said street or thoroughfare.

Such materials to be removed when done with.

VI. No person shall be entitled to claim exemption from the liabilities attached to any offence against the third byelaw under either of the above provisoes unless such person shall cause the sand, ashes, manure, litter, rubbish, dirt, enclosing boards, temporary footways, rails, and other materials enumerated in the said provisoes to be promptly and effectually removed as soon as possible after the cessation of the cause which occasioned their deposit or erection.

Provision for manure, &c., for farming purposes.

VII. Provided also, that no occupier of any farm or arable or pasture land, who shall use, deposit, or dispose of the dung or manure made or employed by him in farming operations according to the usual course of husbandry, shall be liable to the penalty imposed by the third byelaw, where such dung or manure is not mixed with any nightsoil or matter which shall have been removed from any privy, watercloset, or cesspool, and where such dung or manure is not deposited or left in any heap or midden at or upon any place or places within 200 yards of any street or continuous line of houses.

Provision for ashes, &c., used in brickmaking.

VIII. Provided also, that the third byelaw shall not be taken to prohibit the deposit of ashes or other materials used or required in the manufacture and preparation of bricks, where such ashes and other materials are deposited only in the brickfields or places where such manufacture or preparations are and may be lawfully carried on, and are not mixed with any animal or vegetable refuse, or other offensive and noxious matter.

Power of inspector not limited.

IX. Provided also, that nothing in the third byelaw contained shall be taken to limit in any manner the power conferred by the 59th section of the Public Health Act (*a*) upon the inspector of nuisances to order the occupier of any premises whatever, whereon there shall be any accumulation of manure, dung, soil, filth, or other offensive or noxious matter, to remove the same within twenty-four hours after notice duly sent to such occupier requiring such removal.

Removal of snow.

X. Every occupier of premises shall cause all snow to be removed from the footways adjoining the premises occupied by him, at such times as may be ordered by the local board.

Removal of nightsoil.

XI. Where any nightsoil, sewage, or any contents of any cesspool, or any other offensive or noxious matter, has to be carried in or along any street, thoroughfare, or place within the district, it shall be carried in vessels properly covered, and no part thereof shall be allowed to fall on the street or surface.

Time and manner of such removal.

XII. No nightsoil, sewage, or other contents of any cesspool, nor any other noxious or offensive matter, shall be conveyed through any street or thoroughfare within the district except within such hours as may be from time to time fixed by the local board, nor at any time except in carts properly covered and secured against any escape of the contents thereof or any issue of offensive smells from the same, to the satisfaction of the local board.

Cleansing after such removal.

XIII. If, in the course of emptying any privy, watercloset, or cesspool, or of removing nightsoil, the contents of any cesspool, or other offensive matter, any of such nightsoil, contents, or other matter, should be dropped, spilled, or slopped in any streets, passages, highways, or thoroughfares within the district, the person or persons who are engaged in effecting such emptying or removal shall well and carefully sweep and cleanse the place on which such matter shall have been dropped, spilled, or slopped as aforesaid, and shall effectually remove such sweepings therefrom, within the hours fixed by the local board for such emptying and removal as aforesaid.

No soil cart to stand in streets.

XIV. No cart, waggon, or carriage used for the purpose of receiving and removing nightsoil, sewage, or other matter from any cesspool shall be

(*a*) See this section, p. 268.

suffered to stand or remain in any public street, passage, highway, or thoroughfare for any longer time than shall be necessary for the loading thereof. PREVENTION OF NUISANCES.

XV. Every person offending against any of the above byelaws shall forfeit and pay for every such offence a penalty not exceeding 5*l.* and in case of a continuing offence, a further penalty not exceeding the sum of 40*s.* for each day after written notice of the offence from the said local board, or their authorised officer. Penalty for neglect of byelaws.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 98. *s.* 32) (*a*).

## BYELAWS AS TO CLEANSING FOOTWAYS, &c., REMOVAL OF REFUSE, AND CLEANSING OF PRIVIES, &c.

Byelaws made by the local board of with regard to CLEANSING OF FOOTWAYS, &c.

(*A*) *The cleansing of footways and pavements adjoining any premises.*
(*B*) *The removal of refuse from premises.*
(*C*) *The cleansing of privies, ashpits, and cesspools, when such local board do not themselves undertake or contract with any person for the above purposes.*

(*A*) As to cleansing footpaths and pavements:

Every occupier of premises within the district shall keep clean and free from filth the footway and pavement adjoining the premises occupied by him. Cleansing pavements, &c.

(*B*) As to the removal of refuse:

Every occupier of premises shall remove therefrom * (and in such a manner as not to create a nuisance in the process of removal) all the refuse from such premises (at least twice in every week), and shall in the meantime provide, to the satisfaction of the local board, means of storing the said refuse, so that it shall not become a nuisance to the occupants of the premises on which it arises, or to the other inhabitants of the district. Removal of refuse.

(*C*) As to the cleansing of privies, ashpits, and cesspools:

I. In case any privy, watercloset, or cesspool within the district shall be in a foul or offensive state, so as to require cleansing or emptying, and notice under the hand of the inspector of nuisances, or other authorised officer of the local board, shall be given to the occupier, or left at his place of abode or business, or left with any householder entitled to the use of the said privy or watercloset, requiring such occupier or householder to cleanse or empty the same within a time to be therein mentioned, and such occupier or householder shall neglect or omit to comply with such notice, then and in every such case the occupier or householder to or for whom such notice shall have been given or left as aforesaid, shall, for every such neglect or omission, forfeit and pay such sum as shall be hereinafter provided; and the filth and soil of the said watercloset, privy, or cesspool may forthwith, after the expiration of such notice, be removed by the inspector of nuisances or other authorised officer of the local board. Cleansing privies, ashpits, and cesspools.

II. No person shall empty, or assist in emptying, any privy, watercloset, cesspool, or similar receptacle of offensive matter within the district without the use of such deodorizers, and the employment of such other Use of deodorizers.

* If the local board direct precautions to be observed during such removal and times of removal, they may substitute for the words within brackets the words "with such precautions and at such hours as shall from time to time be fixed by the local board."

(*a*) See this section, p. 466.

CLEANSING OF FOOT-WAYS, &c.

means of preventing disagreeable or hurtful effects therefrom, as shall be directed by the local board, or any of their authorised officers.

Penalty for neglect of byelaws.

III. Any person offending against any of the above byelaws, shall forfeit and pay for every such offence a penalty not exceeding 5*l.*, and in case of a continuing offence, a further penalty not exceeding the sum of 40*s.* for each day after written notice of the offence from the local board or their authorised officer.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 98. *s.* 44) (*a*).

## BYELAWS FOR THE REGULATION OF HACKNEY CARRIAGES.

NOTE.—*These byelaws should be preceded by a reprint of sections* 37 *to* 68, *both inclusive, of the Towns Police Clauses Act*, 1849 (*b*), *with respect to hackney carriages, incorporated with the Local Government Act*, 1858, *by the* 44*th section of that act.*

HACKNEY CARRIAGES.

(A) Byelaws for regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance; determining whether such drivers shall wear any, and what badges; and regulating the hours within which they may exercise their calling.

Conduct of drivers.

I. Every driver of any such carriage shall be sober, and conduct himself in an orderly and respectful manner, and obey the reasonable orders of the person or persons hiring his carriage; and shall at all times, when driving or plying for hire, wear, in such manner as shall be appointed by the local board, a badge (to be provided by the local board), having the number of his licence marked thereon; and no driver shall canvass for fares either by calling out, or drawing his carriage off the stand for that purpose.

Drivers not to stand or loiter in streets.

II. No driver of any such carriage shall stand or loiter therewith in any of the streets when not hired (except on the public stands).

Owner and driver to have copy of byelaws, &c.

III. The owner of any such carriage, at the time of obtaining a licence for the same, and every driver of any such carriage at the time of registering his licence, shall procure, either with or without charge, as the local board shall determine, a copy of these byelaws, certified by the signature of the clerk, and with the name of the owner or driver to whom the same shall respectively be delivered, and the number of his, her, or their licence written distinctly thereon.

And to produce such copy, &c., when required.

IV. The owner and driver respectively shall at all times have a copy of these byelaws, so certified as aforesaid, (*and also the table of distances,*)* ready to produce, and shall produce the same for perusal and inspection by any person hiring a carriage, and shall truly point out to such person the byelaw applicable to the case or dispute which may have arisen between such person and such owner or driver. And every driver shall at all times when plying for hire have with him the duplicate of his licence ready to produce, and upon demand shall produce and exhibit the same to any person hiring his carriage, or to any duly authorised officer of the district.

Owners to give the name of drivers on demand.

V. The owner of any such carriage shall, at the request of any person who may have hired the same, or of any officer of the local board having authority in that behalf, declare and make known the name and place of abode of the driver of such carriage, provided such request be made within seven days from the hiring thereof.

Taking up or setting down passengers.

VI. The driver of any such carriage taking up or setting down a passenger at any place of public worship, or public amusement, or at any

* This will not be required in most cases. In large towns and districts, however, it will be found useful.

(*a*) See this section, p. 471. (*b*) See these sections, p. 240.

public meeting within the district, or who is waiting for such purpose, shall act under the direction of the officers who may be on duty at such place or places, as to the taking up, or setting down, or waiting for any passengers, and as to the order and place in which any carriage shall stand, and shall perform his duty in a careful and quiet manner, and shall not push into or get out of the line or position fixed for the carriages, so as to endeavour to arrive at his place of destination before any other carriage, the driver whereof, from its position, would have a prior right to take up or set down passengers.

Passengers at public places.

(B) Byelaws for regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed; and

(C) Regulating the number of persons to be carried, how such number is to be shown, what number of horses to draw the carriage, the placing of check-strings, and how such carriages are to be furnished.

VII. The number of the licence and the number of persons to be carried in the carriage shall be painted on the outside of every carriage in figures of not less than two inches in height, and of proportionate breadth, in such position as the local board may direct, and such number shall be kept legible and undefaced during all the time the carriage shall ply and be used for hire.

Number of licence and of persons to be carried to be painted on carriages.

VIII. The owner of every such carriage shall, in order to enable the hirer to communicate with the driver, provide either a bell, of such construction, and fixed in such a position, as shall be approved of and directed by the local board, or a check-string, which shall at all times be ready and fit for use.

Bell or checkstring to be affixed to carriage.

IX. The owner of every such carriage shall at all times have the same in good order, with the harness perfect and in good condition, and the glasses and frames of the same whole, and the leathers attached to the frames of sufficient length, with two good and sufficient lamps ready for lighting and to be lighted at such times as may be directed by the local board, or by the hirer of such carriage, and the inside of the said carriage clean, and in good repair and order; the whole ready and sufficient for duty, with driver, and horse, or horses, fit to perform any job in such time as may be reasonably required. [And shall furnish for every such carriage a flag to be fixed at the top of such carriage, with the inscription, "for hire," which shall be hoisted when the said carriage is not engaged, and lowered when the same is hired.]*

Carriage to be kept in good order, &c.

X. Infants carried in the arms or on the lap, or one child not so carried, but under seven years of age, and accompanied by an adult, shall not be charged for as passengers; but two children under seven years of age, not so carried, shall be charged for as one adult passenger, and so on in the same proportion for any greater number of such children.

Children being passengers.

(D) Byelaws for fixing the stands for such carriages, and the distance they must take passengers, not exceeding the prescribed distance.

XI. Every carriage licensed by the local board to ply for hire within the district and five miles from of the district, shall be placed, when plying for hire and not actually hired, on some one of the stands or places hereinafter mentioned, and not elsewhere; that is to say,

Stands for carriages.

(*List of Stands*).

XII. The distance travelled shall be computed from the stand or place where the carriage may be engaged or hired, and shall extend to any

Computation of distances.

* This regulation will be found useful where great numbers of carriages are licensed.

distance not exceeding five miles from the district to be computed from within the said district.

(E) Byelaws for fixing the fares, as well for time as distance, and for securing the due publication of such fares.

XIII. The following shall be the fares charged for the hire of carriages licensed by the local board, by distance and by time respectively,

(*List of Fares*).

By distance. By time.

Table of fares to be painted on carriages.

XIV. On the outside of every carriage licensed, and in such position as shall be approved of by the local board, there shall be painted a notice of the rate of fares at which the owner is licensed to ply for hire, in letters of not less than one inch in height, and in figures of not less than two inches in height; and such notice shall be kept legible and undefaced during all the time the carriage shall ply and be used for hire.

Table of fares to be fixed inside of carriages and tickets to be delivered to hirers.

XV. There shall be also printed or painted on a card or plate, subject to the approval of the local board, and fixed in some conspicuous place within the carriage, a notice of the number of licence and the rate of fares for which the owner is licensed to ply for hire (and also the following notice, viz.,

"*Driver is required in all cases to give the hirer, on entering the vehicle, a ticket, and to produce byelaws on demand.*")*

And such number (and notice) shall be so affixed and kept legible and undefaced during all the time the carriage shall ply and be used for hire.

*The owner of every such carriage shall provide, and the driver shall deliver to every person hiring a carriage, on entering the same, a printed ticket in the following or such other form as the local board may from time to time order and direct, and on such ticket the rate of fares at which the carriage plies for hire, in the form stated in the licence, shall be printed.*

(*Owner's Name.*)

(*District.*) No. Coach (*or Cab.*)

(*Preserve this Ticket.*)

In case of complaint apply at the _____

_____

Rate of Fares.

(*As in Licence.*)

(F) Byelaws for securing the safe custody and re-delivery of any property accidentally left in carriages, and fixing the charge to be made in respect thereof.

Property left in carriages.

XVI. In case of property being left in any such carriage by any person who may have hired or used the same, such property shall, within twelve hours after being so found in the carriage, be taken, in the state in which it was found, to , and be there deposited for reclamation; and

* These precautions against overcharge are only required in large and populous districts.

the driver depositing such property shall be entitled to payment for the time occupied in bringing it to the place of deposit at the rate chargeable by time for the carriage driven by hire. HACKNEY CARRIAGES.

XVII. The penalty for the breach or non-observance of any of the foregoing byelaws shall in every case be any sum not exceeding forty shillings. Penalty for breach, &c., of byelaws.

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## COMMON LODGING HOUSES.

COMMON LODGING HOUSES.

Byelaws made and ordained by the local board of health of the borough (or district) of for the regulation of common lodging-houses, pursuant to the powers and provisions contained in the Public Health Act, 1848 (*a*). (Suggested by the first General Board of Health, 1851.)

I. Every person keeping or intending to keep, take, or open any lodging-house within the limits of the said borough or district shall, on or before the day of 18 , or if such person shall not previous to or on the said last-mentioned day be a lodging-house keeper, or if such house shall not on the said last-mentioned day be open for the accommodation of lodgers, then fourteen clear days at the least before such person shall take, keep, or open such lodging-house, and before any lodger shall be received or accommodated in such house, apply to the local board of health within the said borough (or district) to have such house registered as a lodging-house, and such application shall be in writing in the form or to the effect mentioned in the schedule to these byelaws annexed, and marked A., and shall be addressed to the office of the clerk to the local board of health within the said borough (or district), at (*insert the address of clerk*). Application for licence.

II. Every person who shall in making such application knowingly make any false statement regarding any of the particulars required to be stated in such application shall for every such offence forfeit and pay such sum as shall be hereinafter provided. Penalty for false statement.

III. The keeper of every common lodging-house shall cause the windows of every sleeping-room in such lodging-house to be kept open to the full width thereof, from nine to eleven o'clock in the morning and from two till four o'clock in the afternoon of every day, unless prevented by tempestuous weather, or by the illness of any inmate of such room; and during the time the windows are opened as aforesaid he shall cause the bed-clothes of every bed in such room to be turned down and exposed to the air. Ventilation.

IV. Such lodging-house keeper shall cause the floor of every room in such lodging-house to be thoroughly swept once (at least) in each day, before ten in the morning. Sweeping.

V. Such lodging-house keeper shall cause the floor of every room in such lodging-house to be well washed on Friday in every week before twelve at noon. Washing.

VI. Such lodging-house keeper shall cause such lodging-house to be thoroughly cleansed, and the walls and ceiling of every room to be well and sufficiently lime-washed, twice (at least) in every year during the first weeks of the months of April and October; and the blankets, rugs, bed-clothes, and covers used in such lodging-house shall be kept in a clean and wholesome state, for which purpose the blankets, rugs, bed-clothes, and covers used in such lodging-house are to be thoroughly cleansed and scoured at least four times every year; that is to say, at least once some time during the first week of each of the several months of March, June, September, and December. Lime washing, &c. Cleansing of bed-clothes.

(*a*) These may easily be adapted to the provisions of the Common Lodging Houses Acts by the local authority.—[A.N.]

COMMON LODGING HOUSES.

Ventilation.

VII. Such lodging-house keeper shall cause every room in such lodging-house to be ventilated to the satisfaction of the officer of health of the local board, who shall examine such room, and direct what method of ventilation is to be adopted therein.

Notice of fever, &c. Precautions.

VIII. In case of fever or any other infectious or contagious disorder occurring in any such lodging-house, the keeper of such lodging-house shall forthwith give notice thereof to the officer of health, that he may inspect the same, and direct any disinfecting process which he may deem necessary and effectual; and the keeper of such lodging-house shall cause the blankets and bed-clothes used by any person affected by such disorder to be thoroughly cleansed and scoured, and the bedding used by such person to be fumigated, and if the same consists of shavings or straw to be burned immediately after the removal of the person so affected, in such manner as may from time to time be ordered by the officer of health.

Water supply.

IX. Such lodging-house keeper shall provide such accommodation for washing, together with such a supply of water, for the use of the lodgers, as shall be satisfactory to the officer of health.

Water-closets.

X. Every such lodging-house keeper shall be bound to furnish or provide such accommodation in the way of soil-pans or waterclosets for his lodgers as shall be certified to the local board of health by their officer of health to be sufficient, and shall constantly keep them free from offensive smell, and in such a state as the officer of health shall certify to be satisfactory.

Limitation of numbers.

XI. No keeper of such lodging-house shall receive in such house, or in any room thereof, a greater number of lodgers or other persons than shall from time to time be fixed by the local board on the report of their officer of health, and expressed in a ticket to be signed by such officer, which ticket shall be according to the form contained in the schedule to these byelaws annexed, and marked B.; and the keeper of such lodging-house shall hang up in a conspicuous part of each room into which lodgers are received a like ticket, stating the number of lodgers allowed to be received, not less than 250 cubic feet being allowed for each inmate or lodger; and when the district in which any such lodging-house is situated is visited or threatened by any epidemic, endemic, or contagious disease, such a reduction of the number of inmates of each room shall be made from the number which may be accommodated in ordinary seasons as the officer of health may direct.

Regulations as to tickets.

XII. The keeper of every such lodging-house shall apply to the local board of health for an adequate supply of the said tickets; and every such lodging-house keeper,

Who shall neglect or omit to apply to the local board of health for as many of the said tickets as there are sleeping-rooms in such lodging-house; or

Who shall omit, neglect, or refuse to place, affix, and continue one of the said tickets in a conspicuous part of every sleeping-room in such lodging-house; or

Who shall remove or deface such ticket, or permit the same to be removed or defaced, unless by the order of the local board or of one of their authorised officers; or

Who shall omit or neglect, in case of such ticket being lost, defaced, or destroyed, to apply to the local board of health within twenty-four hours thereafter for another ticket in lieu thereof; or

Who shall neglect to have the number of each sleeping-room painted on the door thereof, and a corresponding number printed or written on the ticket intended for such room; or

Who shall neglect or refuse to produce any of such tickets to any authorised officer of the local board, or to deliver the same to such officer on demand,

shall for each and every of such several and respective offences forfeit and pay such sum as is hereinafter provided. COMMON LODGING HOUSES.

XIII. The keeper of every common lodging-house shall reduce the number of lodgers, or cease to receive and accommodate lodgers therein altogether, upon receiving notice to that effect under the hands of two justices of this borough (or district), made by them on the application of an authorised officer of the local board of health, such notice stating therein the special cause of the same being given, and the period, not exceeding fourteen days, during which it shall continue in force. Number of lodgers may be reduced.

XIV. No keeper of such lodging-house shall permit or suffer persons of opposite sexes to sleep in the same room, unless such persons be man and wife, or children under eight years of age. Separation of sexes.

XV. Such lodging-house keeper shall keep a book in which he shall enter daily the number of lodgers, according to the form contained in the schedule to these byelaws annexed, and marked C.; and such keeper shall deliver a weekly return of such lodgers, according to the said form, on every Tuesday, to the authorised officer of the board on his calling for the same at any time after ten o'clock in the morning. Weekly returns.

XVI. All members and officers of the local board shall be entitled to free access to every common lodging-house, and to every room therein, at any time when they shall demand admission, for the purpose of inspecting and examining into the condition thereof, with regard to cleanliness, ventilation, or the number of lodgers therein. Inspection.

XVII. Any person infringing any of the above byelaws or rules, or wilfully obstructing any member or officer of the board in the performance of his duty, or making a false return, shall for every such offence forfeit a sum not exceeding 2*l.*, and a further penalty of 10*s.* for every day during the continuance of the offence after written notice thereof from the local board, the said penalties to be recovered and applied as the statute directs. Penalty for neglect of byelaws.

SCHEDULE A.

*Form of Application for Registry.*

No. (Name of Borough or District.) A.D.

I (*insert the name of applicant at full length*) hereby apply to be recorded as a lodging-house keeper, and to have the house, No. (*insert the number, if any*) situate at or in (*insert name of street, court, or other place*), registered as a lodging-house, pursuant to the sixty-sixth section of the Public Health Act, 1848. Form of application for registry.

The situation and number of the house are as stated above.

The said house contains (*insert number and description of rooms*). My family consists of (*insert the wife, number, age, and sex of children, as the case may be*). And I have residing with me (*insert the names, number, and description of any inmate, servant, or other person residing with the applicant*). I desire to have the said house registered as a lodging-house to accommodate and receive (*insert No.*) lodgers.

(Signed) *A. B.*

SCHEDULE B.

Ticket . No. . Tickets.

No. of the room for which this ticket is intended.

Lodging-house.

Registered to accommodate lodgers.

*Rules and Regulations.*

I. No greater number than lodgers are to be received or accommodated in this house at any one time; two children under the age of six years being considered as one lodger. Rules, &c.

COMMON LODGING HOUSES.

Rules and regulations.

II. The lodgers are to be distributed as follows:

| In Room No. 1. | In Room No. 2. | In Room No. 3. | In Room No. 4. | In Room No. 5. | Total. |
|---|---|---|---|---|---|
| | | | | | |

III. The windows of every sleeping-room in this house are to be kept open to their full width from nine to eleven o'clock every morning, and from two to four o'clock every afternoon (weather permitting), unless the sickness of any inmate of such room should require the window thereof to be closed; and during the time such windows are opened the bed-clothes of every bed in the room shall be turned down and freely exposed to the air.

IV. The floors of every room in this house shall be well swept every morning before the hour of ten, and shall be well washed during the morning of every Friday.

V. This house shall be thoroughly cleansed, and the walls and ceiling of every room thereof shall be well and sufficiently lime-washed, during the first week of the months of April and October.

VI. The blankets, rugs, bed-clothes, and covers used in this house shall be thoroughly cleansed and scoured at least four times a year, that is to say, on the first week of each of the several months of March, June, September, and December.

VII. Every sleeping-room in this house shall be ventilated to the satisfaction of the officer of health of the local board of health.

VIII. Upon any person in this house, whether a lodger or one of the family, being affected with fever or any infectious or contagious disorder, the keeper shall forthwith give notice thereof to the officer of health.

IX. If any person in this house shall be affected with fever or any infectious or contagious disorder, the blankets and bed-clothes used by such person shall be thoroughly cleansed and scoured, and the bedding fumigated immediately after the removal of such person, and where the bedding used consists of shavings or straw, the same shall be burned immediately after such removal. In periods of unusual sickness from any epidemic, endemic, or contagious disease, the number of lodgers to be accommodated in this lodging-house shall be reduced to such a number as the officer of health shall consider necessary to protect the health of the lodgers.

X. This house shall be provided with sufficient accommodation for washing, together with a sufficient supply of water for the use of the lodgers.

XI. This house shall be furnished, to the satisfaction of the local board of health, with sufficient accommodation to the lodgers in the way of privies or watercloseta.

XII. The keeper of this house shall reduce the number of lodgers, or shall cease to receive lodgers altogether, immediately upon receiving notice to that effect under the hands of two justices of this town.

XIII. This ticket shall be placed and kept in such situation in this house, and in such part of each room in this house, as an authorised officer of the local board of health for this town may direct. It shall moreover be produced and delivered to such officer on demand.

XIV. The door of the room for which this ticket is intended shall have a number painted on it corresponding with the number on this ticket.

XV. The keeper of this house shall not permit persons of different sexes, except children under the age of eight years, to sleep in the same room, unless such persons be man and wife.

*N. B.*—The keeper of any lodging-house defacing or removing this ticket, or omitting to apply to the local board of health for another ticket in case

of this being lost, or refusing to admit any duly authorised officer of the local board of health to inspect the same, or disobeying the above rules and instructions, will be liable to the several penalties in that behalf provided by byelaws for regulating lodging-houses in this town, a copy whereof may be obtained by application at the office of the clerk of the local board of health at .

COMMON LODGING HOUSES.

Rules and regulations.

By order of the local board of health,
(Signed)
*Clerk of the Board.*

This ticket was issued the day of , in the year of our Lord 18 .

SCHEDULE C.

Referred to in the Byelaw 15.

LOCAL BOARD OF HEALTH—COMMON LODGING-HOUSES.

Form for weekly returns.

| | Males of full Age. | Females of full Age. | Males exceeding 8 and under 21 Years. | Females exceeding 8 and under 21 Years. | Males under 8 Years. | Females under 8 Years. |
|---|---|---|---|---|---|---|
| Sunday . . | | | | | | |
| Monday . | | | | | | |
| Tuesday . . | | | | | | |
| Wednesday . | | | | | | |
| Thursday . . | | | | | | |
| Friday . . | | | | | | |
| Saturday . . | | | | | | |

Total number of sick during the past week . .
Number of sick at present in the house . . .

I being the keeper of the common lodging-house situate in the parish of in the borough of , being registered No. , do hereby certify, that the above is a true return of my last week's lodgers.

Dated this day of 18 .
(Signed)

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## POWERS AND DUTIES OF LOCAL BOARDS OF HEALTH AND THEIR OFFICERS.

(From Minutes of Instruction by the first General Board of Health, 1851.)

*Appointment of the Chairman.*

DUTIES OF LOCAL BOARDS AND OFFICERS.

The local board having met, and it being ascertained that not less than one-third of the number are present, the first business (except in the case of a corporate district) will be the appointment of a chairman for a year.

Appointment of chairman.

It is unnecessary to dwell on the qualifications which will point out the fittest person for this post. Information on, and interest in, the subjects which the local board have to deal with, together with familiarity with the routine of the business of board meetings, are qualities which will naturally suggest themselves as desirable in the chairman of a local board of health.

No permanent vice-chairman can be appointed. When the chairman is absent from any meeting, the members present are to appoint one of their number to act for him. In case the first appointed chairman die, resign, or become incapable of acting, another member is to be appointed chairman.

DUTIES OF LOCAL BOARDS AND OFFICERS.

during the period for which the original chairman was appointed. The chairman will have a casting vote.

Appointment of chairman and duties.

The chairman elected, and one-third at least of the members being present, the local board is complete for the transaction of business, though for the signing of documents five members are necessary. The byelaws with respect to the place and time of its regular monthly and annual meetings, and the summoning and notice in case of extraordinary meetings (in non-corporate districts), as well as byelaws with reference to the management and adjournment of meetings and the transaction of business generally by the board, will be better made after the appointment of a clerk. In the case of a corporate district, the conduct of the business of the local board will be governed by the directions of the Municipal Corporations Act, the Public Health Act providing that in such a district the council shall exercise and execute the powers, authorities, and duties of a local board, according to the laws for the time being in force with respect to municipal corporations in England and Wales.

The first appointment should be that of clerk, which must be made as soon as possible.

*Appointment of Clerk.*

Appointment and duties of clerk.

This officer ought, where such a choice is practicable, to be a lawyer, as upon him will naturally devolve the duty of interpreting the act for the board, preparing the different notices, summonses, and other legal instruments required under it, and acting as secretary of the board. When this officer is appointed it appears desirable, in non-corporate districts, that the byelaws for regulating the business of the board should be drawn up. In doing this it should be remembered that, though a third of the board may transact business, the signature of five members at least, and the seal of the board, is required (in non-corporate districts), before any document purporting to proceed from such board can be used as *primâ facie* evidence in courts of law. All documents of the board (in non-corporate districts) should therefore be sealed with the board's seal, and signed by five members at least. In the case of the corporate districts, sealing with the corporate seal alone is sufficient.

In some corporate districts the local board of health have adopted a district seal, but it is at least very doubtful whether such a seal can be used, and in all cases the general board would recommend the use of the ordinary corporate seal, and a reference to that seal, as such, in all documents of the local board requiring to be sealed by the act.

It will be the duty of the clerk to keep the minutes of the board, and record therein the names of those present and voting on each question.

The clerk cannot be treasurer of the board, nor partner of the treasurer, nor in their or either of their employment, and *vice versâ*, under a penalty of 1,000*l*.

It appears to be highly undesirable, as has in some cases been done, to appoint the same person clerk and surveyor, or inspector of nuisances, as, under the 138th section (*a*) of the act, all legal proceedings by, on the part of, or against, the local board, under the act, may be (and some in that section must be) performed, instituted, and carried on in the name of the clerk; and legal inconvenience might follow if the clerk, the legal representative of the board, held more than one office under the board.

A question has been raised whether, by the twelfth section (*b*) of the Public Health Act, taken with the sixty-ninth section of the Municipal Corporation Act (5 & 6 W. 4, c. 76), the town-clerk in a corporate district must, *ex officio* or by appointment, be clerk to the local board of health. The sixty-ninth section of the Municipal Corporation Act directs that sum-

(*a*) P. 293.

(*b*) P. 258. This section is now practically superseded, see sect. 12 of 21 & 22 Vict. c. 98, p. 458.

monses to attend the council shall be signed by the town-clerk, and it is said that it would be extremely inconvenient that such summonses should be signed by one officer, and the other ordinary duties of clerk to the local board be discharged by another.

Duties of clerk.

But it must be remarked that the twelfth section directs that "*the council* shall exercise and execute," &c. The clerk is not a member of the council, and it may admit of a doubt whether those parts of the seventy-ninth section which relate to the clerk are incorporated with the Public Health Act. Even if they are, the summonses to the council required by that section may be signed by the town-clerk, while the business of the board itself is conducted by a clerk appointed exclusively to the local board. The thirty-eighth section (*a*), which gives the power of appointing a clerk, is perfectly general in its terms. It makes no distinct special provision for the case of corporate and non-corporate districts, as is done in the thirty-fifth section.

On the whole it would appear to be optional in town councils to appoint to the clerkship of the local board the town-clerk, or any other fit and proper person, though both for the sake of unity of functions and economy the general board would recommend the appointment of the town-clerk in all cases, even if he should require the assistance of subordinate clerks, for the performance of his new duties. The policy of the act throughout favours the consolidation of offices; and there appears no reason why the officer who performs the other legal business of the corporation should not perform that arising under the Public Health Act.

Besides reading the minutes of the proceedings of the board, it will be the clerk's duty to conduct the correspondence, and see to the execution of the orders of the board. He will, in most cases, have to superintend the keeping of the accounts of the board; and an important item of his duties will be the preparing and keeping the rate-books of the district, which will be voluminous, and preparing the necessary documents in case of contracts being entered into by the board. Where the clerk is an attorney, he should transact the business of the board without extra charge beyond his costs out of pocket. Where the duties of clerk to the local board are discharged by the town-clerk, he would, of course, be entitled to an increase of salary proportioned to the enlargement of duties and responsibility.

In all large districts, it is very probable that the whole time of the clerk may be required for the discharge of his duties. He ought to be called upon to give security, as he will, or may be, intrusted with the custody or control of money.

### *Treasurer.*

Appointment and duties of treasurer.

The next appointment is that of treasurer. It would appear the most convenient course, as is generally done in the case of treasurers of unions, to appoint to this office some banker in the district. The treasurer will have to give security (under the terms of section thirty-seven (*a*)). Neither he, nor his partner, nor any one in their or either of their employments, shall in any manner assist or officiate in the office of clerk, under the penalty of 1,000*l.*, nor shall he (under section thirty-eight (*a*)) be in anywise concerned or interested in any bargain or contract made with the board for the purposes of the act, nor accept any fee or reward, other than his salary, under pain of dismissal, and becoming incapable of future employment under the act, and a penalty of 50*l.*

The use of the balance occasionally in the hands of the treasurer, where he is a banker, will, in many cases, more than remunerate him for his trouble as treasurer; and there are examples, in the case of the poor law administration, where bankers who are treasurers to unions not only make no charge, but allow interest on the money in their hands on account of the union.

(*a*) P. 262.

DUTIES OF LOCAL BOARDS AND OFFICERS.

The provisions for auditing the accounts of local boards (under section 122 (*a*)) render unnecessary the appointment of a special auditor.

*Appointment of Surveyor, Inspector of Nuisances, and Officer of Health.*

Appointment of surveyor, inspector of nuisances, and officer of health.

The appointment of a surveyor and inspector of nuisances, as well as of a clerk and treasurer, are compulsory on local boards, under the thirty-seventh section (*b*) of the act.

The duties of these officers are to be regulated by byelaws. But there are also positive duties imposed on them by the act.

From the subsequent enumeration of the duties of a surveyor, it will be seen that he ought to be a person familiar with the practice of engineering, especially hydraulic engineering, in connexion with works of water supply and drainage, competent to conduct surveys, and able to superintend works, test materials, and see to the fulfilment of the conditions of their contracts by contractors for works.

It will be a wise economy in local boards to secure the services of a man properly qualified for such a situation. In districts consisting of a large town, this cost may be borne by the district without difficulty. In rural and thinly-peopled districts, it may sometimes be found practicable for two or more adjoining or neighbouring districts to unite to pay a surveyor and inspector of nuisances between them. The two duties might in such cases be united. But in large towns it is better that they should be kept distinct, as each officer will find ample employment in discharging his proper duties.

By whatever arrangement, however, the services of a competent surveyor are secured, there can be no doubt that it will be the best policy of local boards, in all cases, to employ a person qualified to understand the principles of combined and improved works, and capable of seeing to the efficient application of those principles. These, in reference to works of drainage, sewerage, water supply, and surface cleansing, may be gathered from the report of the general board on the supply of water to the metropolis; and the principles on which epidemics may be prevented or checked may be learnt from their General Report of 1849, and their recent report on cholera.

*Inspector of Nuisances.*

Duties of inspector of nuisances.

There is nothing in the act to prevent this office from being combined with that of surveyor, and even when the offices are distinct the inspector of nuisances and the surveyor will, with respect to many of their duties, have to act in concert.

The positive duties imposed by the act on the inspector of nuisances are the following:

Under section fifty-nine (*c*), he is bound to give twenty-four hours' notice of removal to owners or occupiers where it appears to him that any accumulation of offensive or noxious matters upon any premises ought to be removed, and if the notice be not complied with, then it will be his duty to direct the removal of the same.

Under section sixty-three (*d*) he is empowered, at all reasonable times, and with or without assistants, to enter into and inspect all slaughter-houses or places used for the sale of butchers' meat, poultry, or fish, and if any article exposed for sale therein appear to him to be unfit for human food, to cause the same to be seized.

Such are the positive duties imposed on the inspector of nuisances by name, but under the thirty-seventh section (*b*) of the act, the local board may make byelaws for the regulation of his duties.

By such byelaws he may properly be directed to report under section fifty-four (*e*), on the state of all house-drains, waterclosets, privies, cesspools, and ashpits, and where any of them is, in his opinion, a nuisance, or

(*a*) Sec 21 & 22 Vict. c. 98, s. 60, p. 476. (*b*) P. 262. (*c*) P. 268.
(*d*) P. 270. (*e*) P. 267.

injurious to health, to make the application to the local board which that section requires, previous to proceedings being taken for the abatement of the evil, and thus relieve neighbours from the invidious duty of proceeding against neighbours.

DUTIES OF LOCAL BOARDS AND OFFICERS.

To see, under section fifty-five (*a*), that the streets are properly swept, cleansed, and watered, and that all dust, ashes, filth, dung, and soil are properly removed, duties which vest in him the superintendence of the scavenging, whether let to contractors or kept in the hands of the local board: and further, to see to the execution of the byelaws as to cleansing, which the local board is empowered to make under that section.

Duties of inspector o nuisances.

To see that all conveniences, buildings, and places provided by the local board, under section fifty-six, for the deposit of soil, ashes, dung, &c., are kept in a proper state.

To see that the watercloseta, privies, and conveniences provided by the local board, under section fifty-seven (*b*), are kept in a clean and wholesome state.

To report to the local board any ponds, pools, open ditches, sewers, drains, or places containing any drainage matter or filth that appear to require draining, cleansing, covering, or filling up, under section fifty-eight (*b*).

To report to the local board any case of swine kept in a dwelling-house, or so as to be a nuisance, or any case of waste or stagnant water in cellars, or any instance of the overflowing of the contents of any watercloset, privy, or cesspool, under section fifty-nine (*b*).

To report to the local board, under section sixty (*c*), any house that may appear to him to be in a filthy or unwholesome condition, so as to afford ground for the medical certificate required in that section.

To make periodical inspection of slaughter-houses, under section sixty-two (*c*), and see to the proper observance of the byelaws for the regulation of such places.

To report to the local board, under section sixty-four (*d*), any noxious or offensive businesses, trades, or manufactures, established in the district after the application of the act, and to see to the observance of the byelaws made by the local board in respect of such businesses.

To make periodical inspection of lodging-houses registered under section sixty-six (*d*), and report to the local board any violation of the byelaws for the regulation of such places.

To make periodical inspections of cellar-dwellings, and report on any violation of the conditions of section sixty-seven (*e*), with respect to such places.

To report any cases of wilful or negligent waste of water under section seventy-nine (*f*), or any fouling of water by filth, gas, or otherwise, under section eighty.

To make periodical examination of the graveyards of the district, and report to the local board anything in the state of such graveyards which may seem to him to demand their interference.

### *Duties of the Surveyor.*

Duties of surveyor.

The positive duties imposed on the surveyor by the act are as follows: Under section forty-nine, he is to report on the provisions for drainage necessary for any house to be newly erected or rebuilt, and to see that any drain or drains to be constructed shall communicate with the sea or a sewer, if either be within 100 feet of any part of the site, or, if not, with a covered cesspool, at such distance as the local board may direct; and to report to the local board any house where the drains do not so communicate. The provision with respect to a cesspool is to be regarded only as temporary. No cesspool should be allowed to exist when once a sewer or main drain has been laid down within a reasonable distance.

(*a*) See 21 & 22 Vict. c. 98, s. 32, p. 466. (*b*) P. 268. (*c*) P. 269.
(*d*) P. 270. (*e*) P. 271. (*f*) P. 275.

DUTIES OF LOCAL BOARDS AND OFFICERS.

Duties of surveyor.

Under section fifty-one (*a*), he is to report to the local board when any house, whether built before or after the application of the act to the district, is without a sufficient watercloset or privy and ashpit furnished with proper doors and coverings.

Under section fifty-two (*a*), he is to report when any house is used, or intended to be used, as a factory or building, in which persons of both sexes, above twenty in number, are employed, or intended to be employed, at any one time in any manufacture, trade, or business, with a view that provision may be made for the sufficiency of the waterclosets or privies for the separate use of each sex.

Under section fifty-four (*b*), he may, by the written authority of the board, and after twenty-four hours' notice in writing to the occupier (or, in case of emergency, without notice) enter any premises, with or without assistants, and cause the ground to be opened, and examine and lay open any drain, watercloset, privy, cesspool, or ashpit, of which complaint has been made in writing, and cause the ground to be closed, and advise the board upon alterations or amendments to be made.

Under section seventy-six (*c*), he will have to report any house without a proper supply of water, to which such supply can be furnished at a rate not exceeding 2*d*. per week.

Under section eighty-five (*d*), before the local board contract for any works under the provisions of the act, the surveyor is to furnish in writing an estimate of the probable expense of executing the work, and the annual cost of repaying the same; and also a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair during a term of years or otherwise.

Such are the duties specially imposed on the surveyor by the act, and which must be discharged by him without special directions from the local board. But by the thirty-seventh section (*e*), the local board is bound to make byelaws for regulating the duties and conduct of their officers and servants.

The duties which the surveyor may properly be called upon under such byelaws to perform, are the following: first, with regard to surface works, he should be required to advise the board on the best means of discharging the different duties imposed upon them by the act, where such duties involve the execution of surveys, engineering works, works of new construction, or of repair under contract.

As the local board, by sections sixty-eight, sixty-nine, and seventy (*f*), has vested in it the management of the highways within the district, the charge of making, levelling, flagging, channelling, altering, and repairing such highways should be imposed upon their surveyor, and the charge of all implements used for such purposes given to him.

Under section seventy-two (*g*), he should advise the board as to the level and width of new streets, and as to the purchase of property for widening and improving new streets, under section seventy-three.

Where the local board provides public walks or pleasure grounds under section seventy-four (*h*), the surveyor is the proper person to plan such walks or grounds, or to see that plans furnished by others are carried into effect.

He should advise the board, under section sixty-nine (*f*), where any street is not in proper repair, and inform the board as to the sufficiency of the sewering, levelling, paving, flagging, and channelling of any street, road, or highway, where the proprietors do not object to its being made a highway under section seventy.

He should report to the board, at certain fixed intervals, upon the state of all works under his charge, and upon any new works which it seems to him desirable to carry into effect.

(*a*) P. 266. (*b*) P. 267. (*c*) P. 274. (*d*) P. 277. (*e*) P. 261.
(*f*) P. 272. (*g*) See 21 & 22 Vict. c. 98, s. 34, p. 467. (*h*) P. 273.

He should perform any duties analogous to the above, arising under the provisions of any local acts not repealed.

When the ground is opened to examine any gas pipes (under section eighty (*a*)), the surveyor should be responsible for the proper opening and closing of the ground, and protection of the aperture.

Duties of surveyor.

Where the local board deem it expedient to raise, sink, or alter the situation of any water or gas pipes in any street, he should be responsible for the execution of such alterations when (under the seventy-first (*b*) section) they come into the hands of the board.

He should further be responsible for all raising, lowering, or altering of the surface of streets, the erection and repair of fences, hoardings, and posts, under section sixty-eight (*b*).

Where any ponds, pools, open ditches or places, used for the collection of any drainage, filth, or matter, likely to be prejudicial to health, or of an offensive nature, are to be drained, cleansed, covered, or filled up under section fifty-eight (*c*), the surveyor is the person to see that proper precautions are taken for the prevention of injurious effects during the execution of the necessary works.

The next class of the surveyor's duties relates to buildings.

Under the fifty-third section (*d*), he should advise with the local board on the intended levels of the lowest floor of houses which it is proposed to build, and the proper situation and construction of privies and cesspools, and examine and report upon all statements of particulars rendered necessary by the fifty-third section, for the approval of the local board.

He should report upon any building in the district that may be, from decay or other causes, in a dangerous state, that such precautions may be taken, by fencing or otherwise, as may appear to be necessary.

It will be the duty of the surveyor to see that cellar-dwellings, before they are let or occupied, are in conformity with the conditions laid down in section sixty-seven (*e*).

The third and most important division of the surveyor's duties relates to works beneath the surface.

The local board is empowered under section forty-one (*f*) to cause to be prepared a map exhibiting a system of sewerage for the district. It will be the duty of the surveyor, where he does not prepare the same, to assist in the execution of it, so far as he may be directed by the local board. He ought to take charge of this map, when prepared, and he should be directed to enter upon it all alterations of the surface, or of the buildings upon it, and also to insert all underground works as they are executed, so that the map may at all times accurately exhibit the condition of the locality both above and beneath the surface.

Such a precaution will be found most useful to householders and owners of land adapted for building sites, who are often put to expense, or obstructed by ignorance of the run of the drains in a locality of which neither plans nor records exist. The surveyor should be directed to enter on the map the position and other particulars of all drains that communicate with any public drainage work whatever, so that a knowledge of every drain in the district may be obtained by an inspection of the map.

The surveyor should be entrusted with the management, under the local board, of all sewers vested in the local board by section forty-three (*g*), and also of all house-drains placed under their control.

He should advise with the local board on the expediency of purchasing or contracting for the use of sewers under the forty-fourth section (*g*).

He should superintend for the local board the repairing, making, altering, and closing up any of the sewers vested in them by the act, and examine the sewers at stated periods, to see that they are maintained in efficient action, and kept in such a condition as not to be injurious to health.

(*a*) P. 275. (*b*) P. 272. (*c*) P. 268. (*d*) See 21 & 22 Vict. c. 98, s. 34, p. 467. (*e*) P. 271. (*f*) P. 263. (*g*) P. 264.

DUTIES OF LOCAL BOARDS AND OFFICERS.

He should, under the forty-ninth section (*a*), advise what works of drainage ought to be provided by owners or occupiers upon their premises.

Where, under section fifty-seven (*b*), the local board of health provide public watercloseta, privies, or similar conveniences, it will be the duty of the surveyor to plan or superintend the execution of the works.

Duties of surveyor.

Where, as contemplated by section seventy-five (*c*), the supply of water to the district devolves on the local board, it will be the duty of the surveyor to lay out and execute such works, and to superintend them after they are completed.

It will, however, be apparent, that in small isolated districts, or where from local circumstances it is difficult to form a union with adjoining districts, the expense of securing the permanent services of a surveyor possessed of the special qualifications which are required for the efficient and economical laying out of the works of construction and the general direction of their execution, would be an undue burden on the rates, and the most efficient plan in such cases would appear to be to seek the temporary assistance of a properly qualified engineer, who should act as consulting engineer to the local board, design the necessary works, and give such general directions and superintendence from time to time during their execution as may be necessary. The local board might then appoint with advantage, as their permanent surveyor, an active intelligent person of the qualifications of a clerk of the works, who would, under such direction, be able to superintend the works during their execution, and to take entire charge of them on completion. In such cases, the office of surveyor may be very usefully combined with that of inspector of nuisances.

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*Local Government Act*, 1858.

## INSTRUCTIONS AND SUGGESTIONS TO LOCAL SURVEYORS WITH RESPECT TO MAIN SEWERS, DRAINS, AND WATER-WORKS.

SUGGESTIONS TO SURVEYORS.

Before a scheme of sewerage is devised, the district should be fully examined so as to obtain a correct idea of the drainage area, or the several drainage areas; inquiry should then be made to ascertain how surface water has passed off up to the time of such examination, and with what effects. Main sewers and drains should be adapted to the town area, length of streets, number of houses, surface area of house-yards and roofs, number of street gullies, and volume of water supply.

As to construction of sewers.

Sewers and drains, in wet subsoil, should be made to act as land drains.

Rules.

The following rules are general; each surveyor must, however, use his own judgment, and make the best arrangements possible, under the circumstances, with each special area, and with the materials at command:—

1. Natural streams should not be arched over to form main sewers.
2. Valley lines and natural streams may be improved, so as to remove more readily surface water and extreme falls of rain.
3. Main sewers need not be of capacity to contain flood water of the area drained; such flood water may be passed over the surface, in most cases, without causing injury.
4. Main sewers should be laid out in straight lines and true gradients, from point to point, with manholes, flushing and ventilating arrangements at each principal change of line and gradient. All manholes should be brought up to the surface of the road or street to allow of inspection, and should be finished with a cover easily removable.
5. Duplicate systems of sewers are not required. Drains to natural

(*a*) P. 265. (*b*) P. 268. (*c*) P. 273.

streams in valley lines for storm waters may be retained, and may be improved, or, if necessary, enlarged. SUGGESTIONS TO SURVEYORS.

6. Earthenware pipes make good sewers and drains up to their capacity. Pipes must be truly laid, and securely jointed. In ordinary ground they may be jointed with clay. In sandy ground, special means must be used to prevent sand washing in at the joints. Rules for construction of sewers.
7. Brick sewers ought to be formed with bricks moulded to the radii.
8. Brick sewers should, in all cases, be set in "hydraulic mortar" or in cement. In no case should any sewer be formed with bricks set dry, to be subsequently grouted.
9. Main sewers may have flood water overflows wherever practicable, to prevent such sewers being choked during thunder storms or heavy rains.
10. Sewers should not join at right angles. Tributary sewers should deliver sewage in the direction of the mainflow.
11. Sewers and drains, at junctions and curves, should have extra fall to compensate for friction.
12. Sewers of unequal sectional diameters should not join with level inverts, but the lesser, or tributary sewer, should have a fall into the main, at least equal to the difference in the sectional diameter.
13. Earthenware pipes of equal diameters should not be laid as branches or tributaries, that is, 9 in. leading into 9 in., or 6 in. into 6 in., but a lesser pipe should be joined on to the greater, as 6 in. to 9 in., 12 in. to 15 in., 9 in. to 12 in.
14. House-drains should not pass direct from sewers to the inside of houses, but all drains should end at an outside wall. House-drains, sink-pipes, and soil-pipes should have means of external ventilation.
15. Sinks and water-closets should be against external walls, so that the refuse water, or soil, may be discharged into a drain outside the main wall. Down-spouts may be used for ventilation, care being taken that the head of such spout is not near a window. Water-closets if fixed within houses, and having no means of direct daylight and external air ventilation, are liable to become nuisances, and may be injurious to health.
16. Inlets to all pipe drains should be properly protected.
17. Side junctions should be provided in all sewers and drains. The position should be sketched, and indicated by figures in a book or on a plan. Side junctions not used at once should be carefully closed for subsequent use.
18. A record should be kept by the surveyor of the character of the subsoil opened out in each street sewered or drained.
19. Sewers and drains should be set out true in line and in gradient. All the material used should be sound, and the workmanship should be carefully attended to.
20. "Sight rails" should be put up in each street before the ground is opened out, showing the centre line of each sewer and depth to the invert.
21. Sewers, having steep gradients, should have full means for ventilation at the highest points.
22. Tall chimneys may be used, with advantage, for sewer and drain ventilation, if the owners will allow a connexion to be made.
23. Sewer outlet works should be simple in form, cheap in construction, and so arranged as to remove all solids, sediment, and flocculent matter from the sewage.

In executing town sewers and drains danger may be anticipated from several conditions, as under:— Dangers to be guarded against.

Where a street or place is narrow with buildings on both sides, and where the trench is deep; where the substrata is clay or marl, made

SUGGESTIONS TO SURVEYORS.

ground, loose earth, bog and silt, quicksand, or any combination of such strata.

Dangers to be guarded against.

Quicksand is the most difficult to deal with, and, as a rule, such ground should only be opened in short lengths; this ground may require to be close timbered, and, in such case, stable litter and ashes will be found useful to pack behind and betwixt the "polling" boards.

Sound-looking clay or marl may require careful timbering to prevent heavy breakings from the sides of the trench. When such ground "sets" heavily, the sewer, if of bricks, may be seriously injured; if of earthenware pipes it may be ruined by cracking or by crushing and distorting the line of sewer or drain pipes.

As a rule all sewer and drain trenches in towns should be carefully timbered, and such timbering must either be left in or be most carefully removed as the trench is filled.

The houses and buildings in narrow streets may require to be propped and stayed; if so, such props and stays ought not to be removed until the sewer or drain has been completed, and the ground become perfectly consolidated.

In many cases it will be cheaper, because safer, to leave timbering in deep trenches, and where there is special danger the trench may be filled with concrete.

A foreman in charge of sewer works is expected to be on the watch to see that men execute the works safely. The local surveyor must see that timber sufficient in quantity and in quality is supplied to secure all open trenches, and the buildings on either side.

Where ground is known to be specially dangerous all available precautions must be taken to prevent accidents.

It is of the utmost importance to impress upon local surveyors the necessity of care in setting out main sewerage works and house drains with accuracy, in choosing sound materials, and in properly superintending the works during their progress. House drains should be so arranged as to be capable of removing all water, soil, and fluid refuse from yards, roofs, and interiors of houses to the sewers, without any risk of gaseous contamination to such houses.

Street sewers should be capable of conveying all sewage to some common outlet, without retaining sediment in them. All sewers and drains should have arrangements for full ventilation, at such points and in such manner as not to cause any nuisance. Charcoal (as proposed by Dr. John Stenhouse) may be used to filter and disinfect sewage gases, at all manholes and other ventilators.

If the fluid sewage can be applied to land for agricultural uses, means should be provided for effecting this purpose.

Water-closets should have a day-light window (not a "borrowed light"), and fixed means of ventilation, which can neither be seen nor be tampered with. Permanent openings, equal to a slit 12 ins. in length and 1 in. wide, should be provided. The cover, or lid of the seat, should be made to close and leave the valve handle free, so that the contents of the closet may be discharged with the lid closed down. At all times when a water-closet is not in use the lid or cover should be closed.

### *Water Supply.*

Water supply.

Where a district is to be supplied with water, all other things being equal, the softest and purest water should be adopted.

A water supply may be gravitating; or, the water may be pumped by steam-power. The relative economy of one or the other form of works will depend on details of cost and quality of water. As a rule, gravitating works require the largest capital. The annual working expenses of a pumping scheme will frequently be greatest.

Reservoirs, for service distribution, should be covered.

If filters are used the water should not be exposed in open reservoirs and tanks after filtration. SUGGESTIONS TO SURVEYOR.

Cast iron pipes, properly varnished, should be used for street mains. It is not advisable to use mains less in internal diameter than three inches. Water supply.

Lead should not be used, either in service-pipes or in cisterns. Wrought iron tubes with screw joints, may be used for house-service. All house taps should have screw joints, and be of the description known as "*screw-down*," so as to admit of easy repairs.

In jointing and fixing wrought iron service-pipes care should be taken to insert double screw-joints at convenient points, to allow the removal of a length of pipe for alteration and repairs.

"Up-bends" should be avoided, or a tap should be inserted to allow any accumulation of air to escape.

Wrought iron service-pipes are cheaper, stronger, and more easily fitted than service-pipes of lead. Certain sorts of made ground, in towns, act rapidly and injuriously on both lead and iron pipes,—furnace ashes, waste gas, and chemical refuse, old building refuse containing lime and other such material. Pipes should not be laid in such material without a lining of sand or puddle or other special protection.

Earthenware pipes may be used for water conduits, provided the joints are not placed under pressure.

A public supply of water should not be less in volume than 20 gallons daily per head of the population. This, in towns below 20,000 population, will include water for public purposes and for trade requirements. High-pressure and constant service should be secured wherever practicable.

Water at and below six degrees of hardness is "soft water," above this range water is "hard."

Hardness in water implies one grain of carbonate or sulphate of lime in each gallon of water.

Each degree of hardness destroys 2½ ozs. of soap in each 100 gallons of water used for washing. Soft water is, commercially, of more value than hard water, in proportion to the worth of 5 ozs. of soap to each 200 gallons for each degree of hardness. But soft water is also more wholesome, and effects saving in other operations,—tea-making and steam-power.

Local Government Act Office,
8, Richmond Terrace, Whitehall.

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## INSTRUCTIONAL MINUTE RELATIVE TO THE DUTIES AND QUALIFICATIONS OF OFFICERS OF HEALTH, IN DISTRICTS UNDER THE PUBLIC HEALTH ACT, 1848.

(Issued by the late General Board of Health.)

I. The officer of health is appointed—first, in order that through him the local sanitary authority may be duly informed of such influences as are acting against the healthiness of the population of his district, and of such steps as medical science can advise for their removal; secondly, to execute such special functions as may devolve upon him by the statute under which he is appointed; and, thirdly, to contribute to that general stock of knowledge with regard to the sanitary condition of the people and to the preventible causes of sickness and mortality, which, when collected, methodized, and reported to parliament by the general board of health, may guide the legislature in the extension and amendment of sanitary law. OFFICER OF HEALTH. Object of his appointment.

II. The duties of the officer of health will be to the following effect:— Duties to be performed.

1. He will make himself familiar with the natural and acquired features of the place, with the social and previous sanitary state of its population, and with all its existing provisions for health;—viz., with the levels, inclinations, soil, wells, and water-springs of the district; with its meteoro-

FICER OF HEALTH.

ities to be rformed.

logical peculiarities; with the distribution of its buildings and open spaces, paved or unpaved, of its burial-grounds and lay-stalls; with the plan of its drains, sewers, and water-supply; with the nature of its manufacturing and other industrial establishments; with the house-accommodation of the poorer classes, and the facilities afforded them for bathing and washing; with the arrangements for burial of the dead; and with the regulations in force for lodging-houses and slaughtering places, for the cleansing of public ways and markets, and for the removal of domestic refuse. And, if he be the first officer of health appointed in his district, he will, without unnecessary delay, furnish to the local board a connected account of these matters, so far as they relate to the public health; making thereon such practical suggestions as he may think applicable.

2. He will invite communications relating to the sanitary wants of the district from the resident clergy, medical practitioners, registrars, relieving officers, and other persons or societies engaged in the visitation of the poor.

3. He will take the best means in his power to become acquainted from week to week and, in times of severe disease, from day to day, with the deaths and sicknesses in his district; and he will inquire to what extent they have depended on removable causes.

4. With the assistance of such subordinate officers as the local board may empower him to direct and superintend, he will without intermission see to the wholesomeness of his district; taking care to bring its several parts under examination as often as their sanitary circumstances shall require; and especially observing those places which have previously given occasion of complaint, or been subject to sickness. He will inquire as to the cleanly, wholesome, and weatherproof condition of houses; as to their due ventilation and not overcrowded condition; as to the efficiency of their drainage and water-supply; and as to the absence of dampness and offensive effluvia in and about them. He will examine from time to time the drinking-waters of the place, and will observe whether provisions are offered for sale in any damaged or adulterated state that is hurtful or illegal. He will occasionally visit all burial-places, and see whether they give any ground for complaint; and he will habitually observe the slaughtering-houses of the district, and other industrial establishments which are liable to emit offensive (especially animal) effluvia.

5. He will report to the local board weekly, annually, and at such intervening times as may require it:—

*Weekly*, on all deaths (classified according to age, cause, and locality) and, so far as may be practicable, on all important sickness of the district; on such newly observed unwholesome conditions as the local board can abate; and on the completion, progress, or neglect of improvement in matters previously reported on:

*Annually*, on the sanitary transactions of the year (especially as to the removal of former evils, or the creation of new establishments for sanitary purposes), on whatever incidental changes have been wrought in the physical state of the district, and on the sickness, mortality, and atmospheric conditions of the period:

Using for these reports, as far as convenient, tabular forms and other compendious arrangements; and, in every case where he refers to an existing evil, stating what sanitary rule, measure, or appliance, he deems best for its mitigation.

6. He will attend the local board according to its requirements, will be present at some convenient appointed place as often as may be needful for the receiving of complaints, and in whatever is to be done for the abatement of unwholesome conditions will give all fitting instructions, superintendence, and aid.

ualifica- ons requi- e for the ice.

III. For the proper performance of these duties, special qualifications in science are required. These lie in pathology, including vital statistics, and in chemistry with natural philosophy:—

OFFICER OF HEALTH.

*ology*, because this science implies an exact study of the causes of their relation to the living body,—a study of what they are, and act, and why they seem to vary in operation:

Qualifications requisite for the office.

*l statistics* (properly a section of pathology) because, by analyzing osition of various death rates, and by learning how the pressure of : diseases differs under different circumstances of climate, season, age, sex, and occupation, definite standards of comparison are ithout which the officer of health could not estimate the healthi- nhealthiness of the population under his charge:

*mistry* (including the power of microscopical observation) because uch aid there can be no accurate judgment as to impurities of air r, dangerous impregnations of soil, or poisonous admixtures in l because the same science also guides the application of deodo- l disinfectant agents:

*ural philosophy*, because many nuisances are traced, and many as to ventilation and overcrowding are answered by its laws; because by its aid the officer of health studies the atmospheric and learns the climate of his district—important steps in proceed- ak of its diseases; and finally, because natural philosophy in con- with chemistry renders him competent to report on many manu- processes alleged to be hurtful to health, and on the sufficiency of ns as are employed to reduce the evils ascribed to them.

ranches of knowledge here spoken of are parts of every extended ducation,—for curative and preventive medicine are founded on a basis; but they are not the parts which have most direct relation reatment of disease. The most distinguished practitioner of a rhood may, indeed, happen to be also the person best qualified for r appointment: but the reverse must often be the case,—for not ers of the medical profession can afford equal leisure to cultivate tinctive studies; and it will imply no disparagement of men, nd skilfully engaged in the treatment of disease, if the special ions in question should sometimes be found in other members of ession rather than in them.

other hand, it is important for local boards to know that the best or the general duties of the medical profession is also the best or the duties of an officer of health; and, in choosing among can- ho have not previously held sanitary appointments, electors may rest on the evidences of general aptitude for a medical career, where testifying to methodical and industrious habits, to compe- ers with some previous discipline in scientific observations, to gment, and to thorough conscientiousness in the investigation and ; of facts.

Other avocations desirable.

ıe occupation of an officer of health will not usually be inconsistent devoting a portion of his time to certain other professional engage- ɔut, where possible, it will be well to debar him from the private of his profession:—first, because the claims of such practice would ıntly adverse to those of his public appointment, the duties of specially at times of epidemic disease, when his official activity most needed) private practice could scarcely fail to interrupt and s; secondly, because the personal relations of private practice nder it difficult for him to fulfil with impartiality his frequent of complainant; and thirdly, because, with a view to the cordial and co-operation of his medical brethren, it is of paramount im- that the officer of health should not be their rival in practice, and pportunities of admonitory intercourse with sick families should be liable to abuse for the purposes of professional competition.

ions of this nature will not generally hold against the officer of ing professionally connected with the medical school or hospital of

Provided such engagements are not of too engrossing an amount,

OFFICER OF HEALTH.

it will conduce to the efficiency and public estimation of an officer of health that he be thus kept conversant with the practical aspects of his profession, and have given some security for keeping pace with its scientific progress.

Other avocations desirable.

It may happen that the extent of duty to be required from the officer of health in a particular district would not justify the local board in allotting such a salary to the office as might enable its holder to dispense with the income derivable from private practice. But in cases of this description the object would be equally fulfilled, if the local boards of neighbouring towns or districts would combine in engaging and remunerating a properly qualified person, on the principle that he should be precluded from private practice, and should act as officer of health for the two or more boards concurring in his appointment.

Whitehall, December 20, 1855.

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*Local Government Act*, 1858 (21 & 22 *Vict. c.* 98).

## ANNUAL REPORT.

LOCAL GOVERNMENT ACT, 1858, 21 & 22 Vict. c. 98, s. 76 (*a*).

REPORTS OF LOCAL BOARDS.

### INSTRUCTIONAL MINUTE AS TO ANNUAL REPORT OF LOCAL BOARDS TO THE SECRETARY OF STATE FOR THE HOME DEPARTMENT.

Annual report to Secretary of State.

Every local board shall, between the 1st day of *September* and the last day of *December* in each year, make a report in pursuance of the 76th section of the Local Government Act.

This report shall contain,—

1st. A summary of what has been done in the district in respect of public works, under the heads and comprising the particulars given in form A. hereto appended.

2nd. A summary of what has been done in the district in respect of private works, under the heads and comprising the particulars given in form B. hereto appended.

3rd. A summary of receipts and disbursements, in the form C. hereto appended.

This report, in pursuance of the above section, is to be *published in some newspaper* circulating in the district, and *a copy sent by the local board to the secretary of state for the home department.*

The accounts of receipts and disbursements should be made up to the last audit preceding the date of the report.

Suggested forms.

### FORMS.

District _____

County _____

ANNUAL REPORT OF THE LOCAL BOARD, UNDER THE 76TH SECTION OF THE LOCAL GOVERNMENT ACT, 1858, FOR THE YEAR ENDING , 18 , BEING THE DATE OF THE LAST AUDIT OF THE ACCOUNTS OF THE LOCAL BOARD.

*Directions.*

When the totals of amounts in forms A. and B. do not correspond with the amounts under the same headings in the summary of disbursements, form C., the causes of the differences should be noted in forms A. and B.

Only those sheets of the forms A. and B., under the headings of which any particulars have to be recorded, should be forwarded to the Local Government Act office.

(*a*) See this section, p. 483.

Suggested forms of account, &c.

(1.) FORM A.

*Public Works of Drainage.*

| **State** the length in yards, the size and material of each class of sewer, and the cost of the whole, including all appurtenances.<br>**Give** particulars of any deodorising works executed, and the cost.<br>**Give** particulars of all other works executed in connection with the drainage of the district, and state the cost separately under each contract.<br>**State** separately the expenses of purchase of property, of compensation, of plans and superintendence, of legal proceedings, &c. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(2.) FORM A.

*Public Works of Water Supply.*

| **State** the length in yards of the pipes of each different size laid down, and the cost of the whole, including all appurtenances.<br>**Give** particulars of engines, engine-houses, wells, reservoirs, and all other works executed in connection with the supply of water to the district, and state the cost separately under each contract.<br>**State** separately the expenses of purchase of property, of compensations, of plans and superintendence, of legal proceedings, &c. | Costs of Items. | | | Totals | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(3.) FORM A.

*Public Street Improvements, &c.*

| **Give** particulars of all street and other improvements executed, and state separately the amount of purchase of property, of the cost of the works, and all contingent expenses in each case. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

ANNUAL REPORTS.

Suggested forms of account, &c.

## (4.) Form A.

*Public Works of Paving.*

| Give particulars of new works of paving of each class, paid for by money raised upon mortgage, and total cost. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

## (5.) Form A.

*Highway Repairs, Turnpike Roads, and Public Scavenging, &c.*

| State the total length of highways under the control of the Local Board.<br>State whether highways are repaired out of general district or out of highway rate, or in part out of the one and in part out of the other.<br>(Distinguishing expenses defrayed from the general district rate from those defrayed from highway rate.)<br>Give particulars of all works of paving and highway repairs paid for by current rates.<br>Give particulars of all works undertaken and executed in respect of turnpike roads paid for by current rates.<br>Give particulars and cost of scavenging, street, watering, &c. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

## (6.) Form A.

*Public Works of Lighting.*

| Give particulars of any contracts for lighting, and total expenses incurred for lighting.<br>State costs of all materials and apparatus provided by the Local Board. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

(7.) FORM A.

*Baths and Wash-houses.*

| Give particulars of all works executed in respect of providing baths and wash-houses, and repairs of the same. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

(8.) FORM A.

*Burial Grounds.*

| Give particulars of purchase of land, cost of laying out, and keeping in order of burial ground. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

(9.) FORM A.

*Market Places.*

| Give particulars of purchase of land, cost of erection, and expenses of keeping in repair market places. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

(10.) FORM A.

*Slaughter Houses.*

| Give particulars of cost of erection of slaughter-houses, and keeping in repair. | | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|---|
| | | | £ | s. | d. | £ | s. | d. |
| | | | | | | | | |

ANNUAL REPORTS.

Suggested forms of account, &c.

(11.) FORM A.

*Lodging Houses.*

| Give particulars of all expenses incurred in respect of lodging-houses. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(12.) FORM A.

*Pleasure Grounds.*

| Give particulars of all expenses incurred in maintaining pleasure grounds. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(13.) FORM A.

*Miscellaneous Works.*

| Give separately the particulars and cost of any other works executed and maintained, of materials or apparatus provided, and the current expenses incurred for any objects not included under the foregoing heads or under the head of general expenses. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(14.) FORM B.

SUMMARY of PRIVATE WORKS executed by or under the direction of the Local Board of , during the year ending 18 , and the Cost thereof.

*Private Works of Drainage.*

| State the number of houses and premises of which the works of drainage have been executed by the local board, and the total cost.<br>State the number of houses and premises of which the works of drainage have been executed by owners and occupiers, under the direction of the local surveyor. | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|
| | £ | s. | d. | £ | s. | d. |
| | | | | | | |

(15.) FORM B.

*Private Works of Water Supply.*

| State the number of houses and water-closets to which water has been laid on by the local board, and total cost.<br>State the number of houses and water-closets to which water has been laid on by owners and occupiers, under the direction of the local surveyor. | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|
| | | £ | s. | d. | £ | s. | d. |
| | | | | | | | |

(16.) FORM B.

*Private Street Improvements.*

| Give particulars of all private street improvements, the cost of the works, and of all contingent expenses in each case. | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|
| | | £ | s. | d. | £ | s. | d. |
| | | | | | | | |

(17.) FORM B.

*Private Works of Paving.*

| Give particulars of new works of private paving of each class. | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|
| | | £ | s. | d. | £ | s. | d. |
| | | | | | | | |

(18.) FORM B.

*Establishment Charges (other than Salaries), and other Expenditure.*

| 1.—Give particulars of all current working expenses of establishment not included under foregoing headings.<br>2.—Give particulars of any other items of expenditure not included under foregoing headings. | | Costs of Items. | | | Totals. | | |
|---|---|---|---|---|---|---|---|
| | | £ | s. | d. | £ | s. | d. |
| | | | | | | | |

ANNUAL REPORTS.

Suggested forms of account, &c.

## Form C.

Summary of Receipts and Disbursements on account of the "Public ... year ended ...

| | | | | |
|---|---|---|---|---|
| Balance in hand from last account :— | | | | |
| RECEIPTS. | | | | |
| To amount received from— | | | | |
| General district rate of d. in the £* | | | | |
| Special district rate of d. in the £* | | | | |
| Highway rate of d. in the £* | | | | |
| Public water supply rate of d. in the £* | | | | |
| District fund account | | | | |
| Private improvement rates | | | | |
| ,, water supply rates | | | | |
| Other Receipts :— | | | | |
| On account of highways, roads, &c. | | | | |
| On account of improvements, interest, sale of property, and incidentals | | | | |
| Loans upon security of rates—, at per cent.† | | | | |
| Total receipts | £ | | | |
| Balance overspent (if any) | £ | | | |
| Total receipts and balance | £ | | | |

* State the several rates in the £ levied during the year.
† State the per-centage at which the several loans may have been effected.

Debts now owing :—

| | | |
|---|---|---|
| Bonded or mortgage debt | £ | at per cent. |
| Unpaid interest | £ | |
| Floating debt for tradesmen's bills, &c. | £ | |
| Length of highways and roads | | miles. |
| Assessable value of district | £ | |

Suggested forms of account, &c.

FORM C.

th Act, 1848," and "Local Government Act, 1858," of the
186 .

| | | | | | | |
|---|---|---|---|---|---|---|
| ice overspent on last account (if any) | | | | | | |
| DISBURSEMENTS. | | | | | | |
| n respect of PUBLIC WORKS OF— | | | | | | |
| " Sewerage | | | | | | |
| " Water supply | | | | | | |
| " Streets improvements | | | | | | |
| " Works of paving | | | | | | |
| " Repairs of highways | | | | | | |
| " Turnpike roads | | | | | | |
| " Scavenging and watering roads | | | | | | |
| " Lighting | | | | | | |
| " Baths and wash-houses | | | | | | |
| " Burial grounds | | | | | | |
| " Market places | | | | | | |
| " Slaughter-houses | | | | | | |
| " Lodging-houses | | | | | | |
| " Pleasure grounds | | | | | | |
| " Miscellaneous works | | | | | | |
| n respect of PRIVATE WORKS OF— | | | | | | |
| " Drainage | | | | | | |
| " Water supply | | | | | | |
| " Street improvements | | | | | | |
| " Paving | | | | | | |
| " Scavenging | | | | | | |
| n respect of GENERAL EXPENSES— | | | | | | |
| cpenses of adoption of act | | | | | | |
| " Salaries of officers | | | | | | |
| " Establishment charges other than salaries | | | | | | |
| " Collector's poundage | | | | | | |
| " Election | | | | | | |
| " Surveys and plans* | | | | | | |
| " Law and parliamentary proceedings* | | | | | | |
| " Compensations* | | | | | | |
| " Other expenditure | | | | | | |
| on account of LOANS on MORTGAGE of RATES— | | | | | | |
| nstalment of loan | | | | | | |
| nking fund account | | | | | | |
| nterest | | | | | | |
| Total expenditure | | | | | | |
| Balance now in hand | | | | | | |
| Total expenditure and balance | | | | | | |

cases where expenditure of this character is not included in any of the fore-items.

Signature_____

Clerk to the Local Board of_____

DUTIES OF OFFICERS.

## SUGGESTIONS FOR DUTIES OF OFFICERS IN RESPECT OF THE ACCOUNTS OF LOCAL BOARDS, WITH FORMS OF ACCOUNTS.

### *Duties of the Clerk.*

Books to be kept by the clerk.

I. He shall keep a minute-book and journal, in which he shall, at each meeting of the local board, enter, in addition to the minutes of the ordinary proceedings of the board, a statement of the books and accounts of the other officers which shall have been examined by him since the last meeting of the board, and minutes of all cheques drawn on the treasurer, with the particulars of the amount for which each cheque has been drawn, and of the amounts received by the treasurer since the last meeting of the board; and all minutes relating to the allocation or division of charges, according to the directions of the board; and shall insert marginal notes of reference to the respective folios of the ledger in which the items relating to any such orders, payments, receipts, or other pecuniary transactions are entered.

II. He shall keep a ledger, and shall punctually enter therein the various transactions of receipt or payment of monies, or allocation of charges, contained in the minute-book and journal under the following heads of subordinate accounts (or as many thereof as may be necessary), and such additional subordinate heads as may be from time to time necessary; viz. :—

### *Subordinate Accounts of Public Works (Form A.).*

Accounts of public works.

1. Public works of drainage, (including) :
   - Expenses of outfall and distribution of sewage; local government act (*a*), section 30, and public health act (*b*), section 46.
   - Sale of sewage; local government act, section 30.
   - Purchase or lease of premises for sewage; local government act, section 30.
   - Covering open ditches, local government act, section 31, and public health act, section 58.
   - Sewerage and drainage construction; public health act, section 44, 45, 46, (and other like items).
2. Public works of water supply, (including) :
   - Cleansing and watering streets; local government act, section 32.
   - Public water supply; local government act, section 52, and public health act, sections 75, 78.
   - Purchase or erection of waterworks; local government act, section 53, and public health act, section 75, (and other like items).
3. Public street improvements, (including) :
   - Expenses of improving, &c. streets; public health act, section 68, 69, 70, 71, 73, (and other like items).
4. Public works of paving, (including) :
   - Expenses of public pavement; public health act, section 58, (and other like items).
5. Repairs of highways, turnpike roads, and public scavenging, (including) :
   - (A.) General repairs; local government act, section 37, (and other like items).
   - (B.) Repairs under a highway rate; local government act, section 37, (and other like items).
   - (C.) Expenses of maintaining turnpike roads; local government act, section 41, (and other like items).
   - (D.) Removal of house refuse, &c.; local government act, section 32, (and other like items).

(*a*) See 21 & 22 Vict. c. 98, p. 457. (*b*) See 11 & 12 Vict. c. 63, p. 246.

DUTIES OF OFFICERS.

(E.) Expenses of alterations of bridges, canals, &c. ; local government act, section 40, (and other like items).

Accounts of public works.

6. Public lighting, (including) :
   Expenses under 12 & 13 Vict. c. 94, section 8 ; expenses under any private act; expenses under 3 & 4 Will. IV. c. 90, (and other like items).
7. Baths and wash-houses :
   Expenses under local government act, section 47, and public health act, section 77.
8. Burial grounds :
   Expenses under local government act, section 49.
9. Market places :
   Expenses under local government act, section 50.
   (A.) Public conveniences :
   Expenses under public health act, section 57.
10. Slaughter-houses.
   Expenses under public health act, section 62.
11. Lodging-houses :
   Expenses under public health act, section 66.
12. Pleasure grounds :
   Expenses under public health act, section 74 ; and any other subordinate accounts of public works.
13. Miscellaneous works.

*Subordinate Accounts of Private Works Local Government Act, section 57 (Form B.).*

Accounts of private works.

14. Private works of drainage, (including) :
   Sewerage and drainage ; public health act, section 49.
15. Private works of water supply, (including) :
   Expenses of supply ; local government act, section 51, and public health act, sections 75, 76.
16. Private street improvement :
   Expenses of private streets ; public health act, sections 68, 69, 70, 71-73.
17. Private works of paving, &c. :
   (A.) Expenses under public health act, section 69.
   (B.) Private improvement rent-charges ; local government act, section 58.
   (C.) Private scavenging : cleansing privies, drains, &c. ; local government act, section 32, and public health act, section 54.
18. Sinking fund account : local government act, section 57.
19. Establishment charges (other than salaries) and other expenditure.
   (A.) Expenses of adoption of act ; local government act, section 12.
   (B.) Establishment expenses ; public health act, section 37.
   (C.) Election expenses ; public health act, section 30.
   (D.) Surveys and plans ; public health act, sections 41, 42.
   (E.) Legal expenses.
   (F.) Penalties, and the application thereof ; local government act, section 32, and public health act, section 28, &c., &c.
   (G.) Compensation account ; public health act, section 144.
   (H.) Collector's accounts, separate for each class of rate or fund collected by him ; public health act, section 37.
   (I.) Surveyor's account ; public health act, section 37.
   (K.) Inspector's account ; public health act, section 37.
   (L.) Treasurer's account ; public health act, section 37.
   (M.) Tradesmen's accounts ; or, if the local authority so direct, a separate ledger to be called "tradesmen's ledger."
   (N.) Loan accounts, with persons advancing money.

DUTIES OF OFFICERS.

Accounts of private works.

And at the end of every year, or oftener, if so directed by the local board, he shall allocate or divide the expenditure so entered under the foregoing accounts among the following chief accounts, according to the nature of the expenditure or of the works executed :—

1. General district rate account; local government act, section 55.
2. Private improvement rate account ; local government act, sections 57, 58.
3. District fund account ; public health act, section 87.
4. Highway rate account; local government act, section 37.
5. Water rate or water supply account.
6. Special district rate account (where existing) ; local government act, section 54.

Stating the respective dates of such transactions, and making references to the folios of the minute-book and journal in which the entries relating to such transactions are contained, and to the folios of the corresponding debits and credits respectively.

III. He shall immediately after the 25th day of March in every year prepare a summary of receipts and expenditure, showing the amounts received and expended under each of the heads of the chief accounts, and shall submit such summary to the local board for their inspection, and to the auditor for his examination and audit, under the provisions of section 60 of the Local Government Act, 1858. He shall give twenty days' notice of such audit as therein required.

*Duties of the Treasurer.*

Treasurer.

1. He shall receive all monies tendered to be paid to him on account of the local board.

2. He shall pay out of the monies for the time being in his hands, and belonging to the local board, all cheques or orders, signed by five members of the board, and countersigned by the clerk, when the same shall be presented at his house or usual place of business, and within the usual hours of business.

3. He shall keep his account of receipts and payments, and shall lay the same before the local board at every ordinary meeting of the board, and at such other time as the local board shall direct.

4. He shall sign the collector's statement; which signature shall be deemed to be equivalent to an acknowledgment of the receipt of the money therein stated to be paid to the treasurer.

*Duties of the Surveyor.*

Surveyor.

1. He shall, on every Monday morning, deliver to the clerk to the local board for examination, previous to being laid before the board [an account of labour and materials supplied].

2. He shall also at the same time deliver to the clerk an account of the sale or disposal, during the preceding week, of all sewage manure prepared at the deodorizing works, in order that the amounts due to the local board may be collected and carried to the district fund account, as directed by the act.

3. He shall also keep a duplicate copy of such statements in books to be provided by the local board for that purpose, and shall produce such books at every meeting of the local board.

*Duties of the Inspector of Nuisances.*

Inspector of nuisances.

1. He shall, on every Monday morning, deliver to the clerk for examination previous to being laid before the board [an account of labour and materials].

2. He shall also render to the clerk, weekly, an account of the sale or disposal of all soil, dung, filth, ashes, dust, rubbish, or other like matter,

the property of the local board, in order that the proceeds may be duly collected and carried to the district fund account as directed by the act. DUTIES OF OFFICERS.

3. He shall also keep a duplicate copy of such statements in books to be provided by the local board for that purpose, and shall produce such books at every meeting of the local board.

*Duties of the Collector.*

1. He shall collect all the rates made by the local board, and shall, as soon as he shall have received such rates from the clerk, fill up and use a "rate receipt check-book," in the form to be provided for that purpose; and when he shall receive the amount due from the party who is to pay the same, he shall detach the receipt from the counterpart, and give it to the party paying the same, first filling in the date in the receipt and counterpart. Collector.

2. It shall be his duty, before he commences collecting any rate, to prepare receipts in the aforesaid form, numbered both on the receipt and counterpart thereof with the same number consecutively throughout the book, and to fill in the same with the particulars of the demand upon the ratepayer; such book, when so filled up, shall be submitted to the clerk for examination, and on the leaf next after the last of such receipts the clerk shall certify that he has examined such receipt-book, and shall state in words at length the number of receipts then filled up for the rate then to be collected. If upon the closing of any rate there shall remain in the rate book any receipts unused, the collector shall enter in writing upon such receipts the reason of their not having been used, and date and sign such entry.

3. He shall at the end of every week pay over all monies collected by him to the treasurer, and shall at the time of such payment to the treasurer give him a statement in writing showing on account of what rate such monies have been received.

4. He shall, notwithstanding a week shall not have elapsed since his last payment to the treasurer, pay to the treasurer all monies in his hands exceeding (30*l.*).

5. He shall keep a book to be called the *collecting and deposit book*, in which shall be entered accurately, and under the true dates, all sums received and paid over by him as such collector, and also the number of every receipt given by him from the rate receipt check-book.

6. He shall make out a (weekly) statement containing the particulars [of the amount of rates collected during the week and of rates due, and the names of persons in arrears, as well as a general statement of account with the treasurer], and send such statement to the clerk to the local board. Weekly statement.

7. In pursuance of section 39 of the Public Health Act, 1848, he shall make a return, showing the parties from whom no rate has been received on account of each rate made and collected by him.

8. He shall attend the meetings of the local board if so required.

9. He shall attend the clerk at least once in every week, and produce the check-books and collecting-books, which shall be accurately entered up, and show all sums received by him as such collector.

10. He shall make out, as often as may be required by the local board, a statement, showing, with reference to each separate rate under collection, the amount of such rates actually collected, the amount of arrears legally excused, the amount of arrears irrecoverable, and the amount of arrears recoverable.

11. He shall give notice, in the form provided for that purpose, to owners of property of the compositions which the local board may offer to accept in lieu of the several or respective rates imposed by the said act, and receive and file the answers which may be given to such proposals.

12. He shall take proceedings, under the direction of the local board or the clerk, or, in case of emergency, without such direction, for the

DUTIES OF OFFICERS.

Collector.

recovery of any sums which may be due for rates after the same shall have been lawfully demanded.

13. He shall apportion the rates (except private improvement rates) payable on premises becoming occupied or unoccupied after the making of such rates (as the case may be) on the in-coming or out-going tenants, according to the time of their respective occupations as compared with the whole period for which such rates may respectively be made, and receive the sums so apportioned accordingly, entering in the rate-book an explanation thereof.

14. He shall collect and receive all monies which may be due to the local board, arising from the sale of sewage, filth, &c., and such other sums applicable to the district fund or other account as he may from time to time be required by the local board or their clerk to collect or receive, and give receipts or printed forms for all such monies which he may so receive, keeping counterparts of such receipts.

15. He shall observe and execute all orders and directions of the local board applicable to his office.

16. He shall give, and from time to time renew, such security as the local board may require for the faithful execution of his office, and give immediate notice to the local board of the death, insolvency, or bankruptcy of his surety or sureties, or either of them.

SUGGESTIONS FOR ACCOUNTS.

## Suggestions for Keeping the Accounts, etc.

### *Preliminary Remarks.*

Remarks.

The following suggestions for keeping the accounts of places under the Public Health Act, 1848, and Local Government Act, 1858, have been mainly taken from the general order for keeping poor law accounts, issued by the poor law commissioners in March, 1847.

From the fact of the accounts of nearly 700 unions being kept in this mode, it is assumed that no difficulty will arise in adapting the same principles to the accounts of local boards.

By those who are acquainted with that order, it will be seen that the "chief accounts" herein suggested correspond with the "parochial ledger accounts," the "parochial accounts" being, indeed, the "chief accounts" of a poor law union; and the subordinate accounts correspond to those accounts enumerated in "article 14" of the order above referred to, such as "in maintenance," "out-door relief," &c.; and the remaining suggested accounts are only modifications, to the circumstances and requirements of local boards, of the accounts with treasurers, relieving officers, &c. &c.

### *Suggestions for Keeping the Accounts of Local Boards.*

Classification of accounts.

For convenience and facility of reference it may be advisable to classify the accounts under four general titles, viz. :—

1st. Chief Accounts.
2nd. Subordinate Accounts.
3rd. Distributing Accounts.
4th. Collecting Accounts.

Chief accounts.

1st. The chief accounts should be kept under the heads of the different rates authorised to be levied under the act, and the district fund, viz. :—

General district rate; public health act, sections 87, 98; local government act, section 55.

Private improvement, rate; public health act, sections 90, 98, &c.; local government act, sections 57, 58.

District fund account; public health act, section 87; local government act, section 57.

Highway rate, in places where the repair of the highways is to be defrayed by a separate rate; local government act, section 37. SUGGESTIONS FOR ACCOUNTS.
Water supply; public health act, sections 76, 93; local government act, sections 51, 52.
Loan accounts.
Special district rate, where existing as security under public health act, sections 86, 98; local government act, section 54.

2nd. The subordinate accounts should be kept under the heads of the several works which the local board is empowered to undertake, such as— Subordinate accounts.

*Subordinate Accounts of Public Works.*

Public works.
1. Public works of drainage.
2. ,, ,, water supply.
3. ,, street improvements.
4. ,, works of paving.
5. Repairs of highways (highway rate).
6. ,, ,, (general district rate).
7. Turnpike roads.
8. Public scavenging.
9. Alteration of bridges, canals, &c. &c.
10. Public lighting.
11. Baths and wash-houses.
12. Burial grounds.
13. Market places.
14. Public conveniences.
15. Slaughter-houses.
16. Lodging-houses.
17. Pleasure grounds.

*Subordinate Accounts of Private Works.*

Private works.
1. Private works of drainage.
2. ,, ,, water supply.
3. ,, street improvements.
4. ,, works of paving.
5. ,, rent-charges.
6. ,, scavenging.
7. ,, sinking fund account.

*Subordinate Accounts of a General Character.*

General accounts.
1. Expenses of adoption of act.
2. Establishment expenses.
3. Election expenses.
4. Surveys and plans.
5. Legal expenses.
6. Penalties.
7. Compensation account.
8. Tradesmen's accounts; or, if the local authority so direct, a separate ledger to be called "tradesmen's ledger."

3rd. The distributing accounts should be kept under the heads of,— Distributing accounts.
1. Treasurer's account.
2. Surveyor's account.
3. Inspector's account.

As all disbursements are made through the agency of these officers, their accounts should show the expenditure of money passing through their hands.

4th. The collecting accounts should be kept under separate heads for the separate classes of rates which are given to the collector to collect, viz.:— Collecting accounts.
Highway rate.
Special district rate (where existing as a security).

SUGGESTIONS FOR ACCOUNTS OF LOCAL BOARDS.

Collecting accounts.

General district rate.
Private improvement rate.
Water rate; and
District fund, in cases where the collector collects the money due to this fund.
And any other description of public or private rate or fund for the purposes of the public health act or local government act.

1*st*, *Chief Accounts.*

The leading charges incidental to the chief accounts, viz. :—

General district rate account.
Private improvement rate.
District fund account.
Highway rate account; public health act, section 117; local government act, section 37.
Water rate account.
Loan accounts; public health act, section 107.
Accounts with parties who advance money.
Special district rate account.
Where existing as security under public health act, sections 86, 98; and local government act, section 54.

Ledger.

Accounts should be opened in the ledger under each of the chief and subordinate heads, and with the treasurer, surveyor, and collector.

All sums received will be debited to the treasurer, as he is the proper officer to receive all monies on account of the local board, the corresponding credit will be given to the collector who collects and pays him the money, the collector having been previously debited with the rate given to him to collect, and the corresponding credit having been given to the particular rate.

All payments will be credited to the treasurer, as he only has the custody of the funds of the local board, and the corresponding debit will be given to one of the subordinate accounts to which the payment refers, or to the inspector or surveyor.

At the time for making up the annual accounts, or oftener if desirable, and the local board should so direct, all the debits of the subordinate accounts should be collated and classified, and transferred to the debit of that chief account to which they are by law chargeable, and the subordinate accounts will be correspondingly credited. These will then be balanced, and the outstanding balances will be due *to* the chief accounts, and *from* the treasurer, or *vice versâ*, as the rates have been more or less than the expenditure.

This mode will show under what particular head, to what extent, and for what purposes, the rates have been expended, and through whose hands the money has intermediately passed.

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